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AN

HISTORICAL ESSAY,

&c.

VOL. I.

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AN

HISTORICAL ESSAY

ON

THE REAL CHARACTER AND AMOUNT OF THE PRECEDENT

OF

THE REVOLUTION OF 1688:

IN WHICH THE OPINIONS OF

MACKINTOSH, PRICE, HALLAM, MR. FOX, LORD JOHN RUSSELL, BLACKSTONE, BURKE, AND LOCKE, THE TRIAL OF LORD RUSSELL, AND THE MERITS OF SIDNEY,

ARE CRITICALLY CONSIDERED.

ADDRESSED TO

THE RIGHT HONOURABLE CHARLES WILLIAMS WYNN, M.P. FOR MONTGOMERYSHIRE.

BY R. PLUMER WARD, ESQ.

AUTHOR OF "TREMAINE."

Opinionum commenta delet dies,
Naturæ judicia confirmat.

IN TWO VOLUMES.

VOL. I.

LONDON:
JOHN MURRAY, ALBEMARLE STREET.
MDCCCXXXVIII.

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PREFATORY REMARKS.

I COULD have wished that the following work had been cast in a different form, for perhaps its most interesting parts, if any are interesting, will be found in the Appendix, and an appendix, except with a view to mere reference, is seldom read. Yet the work being in the form of an almost continuous narration, or, at least, of a letter to the enlightened friend to whom it is addressed, I could not conveniently stop its current, to make an excursion into a criticism of the tenets of Mr. Fox, or Locke, or the guilt or innocence of Lord Russell. Yet these, perhaps, are the most important and interesting parts of the whole volume, and I beseech the reader's attention o them accordingly.

While this work is printing, the news of the events in Canada is arrived. All we can

say of it is, that if there wanted the most complete example of the dangers, in practice, of the precepts which we have been combating, eminently of those respecting the *reformatory revolt* broached by Sir James Mackintosh, it is here supplied to our hand.

THE AUTHOR.

Gilston Park, Dec. 30. 1837.

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ERRATA.

VOL. I.

Page 1. line 5. *for* "who admires," *read* "whom I admire for."
63. *to* "This was the head and front of the offence," *add* "as contained in the petition."
66. last line, *for* "judicial," *read* "executive."
67. line 16. *for* "as," *read* "an."
84. line 13. *for* "Fivirden," *read* "Twisden."
88. line 8. of note, *for* "indicted," *read* "tried."
89. line 11. *for* "treason," *read* "evidence."
128. line 9. *after* "reason," *add* "against it."
163. line 22. *for* "Whig," *read* "Whigs."
215. line 8. *for* "this," *read* "his."
285. line 9. *for* "his precious father-in-law," *read* "his son's precious father-in-law."

VOL. II.

Page 87. line 23. *for* "daring attempting," *read* "daring to attempt."
74. line 2. *for* "republicanism," *read* "democracy."

AN

HISTORICAL ESSAY,

&c. &c.

My dear Sir,

As an old friend, a friend in public and in private, with whom on questions the most stirring, and vital to the security of society, when most old friends are divided, I believe I have the good fortune mainly to agree; and more particularly as a friend whom I admire for your correct and deep knowledge of the Constitution, and the firmness you have always shown in defending it, perhaps I may be excused for addressing you on some of the points of dispute, which, after a century and a half's seeming settlement, appear in our ill-fated Country to be more unsettled, or, at least, more agitated, than ever.

What I particularly advert to, are those, what I may call *Revolutionary* principles, which among all ranks, in all places, and at all times—among men, women, and children, morning, noon, and night—are debated with more or less acrimony, (but generally

with a great deal,) producing divisions among friends and families, setting sons against fathers, and making fathers wish their sons had never been born; which seem at present to be undermining all the happy securities of life, and

"fright the Isle from her propriety."

One would have thought that all the dangerous and visionary theories in regard to the origin of Governments; the rights of kings, whether supposed divine and indefeasible, or derived by election from the people; the right of resistance and insurrection at the will of that people, and their power to *try* and to punish sovereigns, as the French Assembly did by Louis XVI., and as it was supposed that we did by Charles I.;—one would have thought, I say, that all these questions, and the nature of the much-abused term, *the Sovereignty of the People*, had long been set at rest, and buried in the graves of those who agitated them with so much ability and zeal on both sides.

I certainly never expected, after the miseries and atrocities of the French Revolution had spent their force, and men had recovered from the delirium which had blinded them, and put the abuse of liberty to shame, that the rash and daring principles of Payne, Price, and others, of a right under the law, or from history, to "choose our own governors, to cashier them for misconduct, and to frame a government for ourselves,"—that these principles should be

revived, and preached, and acted upon, or at least recommended, as the known and admitted axioms of the Constitution.

Yet the question of our great and happy Revolution seems "never ending, still beginning;" and there are not wanting high, and respectable names, adorned with scholarship and research, and invulnerable to any reproach of factious, or rebellious designs, as well as others to which the contrary may be evidently imputed, which advocate and disseminate these dangerous doctrines.

Used and acted upon as they are, by the mischievous and restless spirit which pervades most ranks, and is, unhappily, rather encouraged than resisted by those who ought to know better, they tend most markedly, and therefore most unhappily, to unsettle all hope or expectation of again seeing the sunshine of quiet in these agitated realms.

Am I wrong in saying those who *should know better*, when a man of accomplished mind and superior mould, — a man believed by all to be the soul of honour, and distinguished by education and ability as much as by birth, rank, and fortune, — when such a man, a peer, and Prime Minister, proclaimed from his place in parliament, that the bishops should put their houses in order; meaning (for that was the clear inference,) that otherwise they should surely die; and when the same person held, that he was not a wise man who did not legislate in the spirit of the times, that spirit, at least in great numbers, being, as

we know, the destruction of the Church, and the subversion of the Constitution.

It is in vain that this eminent person, or his friends for him, say, that when he uttered these very faulty maxims, he did not believe such to be the spirit he alluded to.

The maxim was general, and had it been pursued, he must have abided all consequences.

Whether, if he held an opinion of its innocency when he broached it, he holds it now, is a question which may be answered by his having felt forced by principle, and real fears for a country he loves, to abandon the helm, and with it probably the doctrine itself.

We ought, therefore, to respect him for honour's sake.

But there are others, whose conduct, as well as political preaching, resembles the infatuation of some men, who will not believe in the reality of an earthquake, until they are buried in its ruins.

These hold tenets which they call and believe to be constitutional law, and which, especially in times such as I have described, might and may lead to consequences so disastrous, that you will possibly excuse me if I invite you to a consideration of the grounds of their opinions.

I am the more impelled to this from the circumstance that some of them are men, who from their abilities and their genius, their learning and their accomplishments, are fit to be regarded as

no inconsiderable authorities on the side they have taken.

At the head of these I should place a person, whom, I believe, both of us admired, when alive, as an eloquent rhetorician, philosophic writer, and amiable man, though we might not follow him through half the conclusions he has ventured upon, in the course of a long and busy life, valuable to letters and to ethical, if not to political science.

You will perhaps at once perceive, that I allude to the late Sir James Mackintosh.

His last work, "the History of the Revolution of 1688," has been perused by me with all that deference and interest, which any work of his must always command. Never was a fuller mind, or poured out with more facility, warmth, or energy on any subject he chose to embrace; but more particularly that which had engaged and absorbed his earliest attention, and touched and elevated his youthful conceptions to a degree which never subsided, (as we see by the work before us,) though advanced to, what may be called, old age.

I mean the principles of that strong, vehement, and eloquent ebullition, which first made him known to fame, and which all must admire, though few may approve.

The Vindiciæ Gallicæ indeed will ever be read as a first-rate production of genius, however it may be blamed for rash and wild theories, and as a defence of errors in practice, leading to horrors which no

subsequent advantages could ever compensate, much less excuse.

These principles, or at least the defence of many of their consequences, were afterwards, we are told, abandoned by him, or ceased to be brought forward as his ruling motives of action in his brilliant career.

On one eminent occasion, indeed, (the defence of Peltier for a libel upon Buonaparte,) the crimes of the principal instigators of the Revolution were blazoned and held up to just detestation, with a fervour as well as depth, which few could equal, none exceed; and, but for the publication in question, I, for one, should have been happy to think that the dangerous, and, as I think, untenable principles of the Vindiciæ Gallicæ had been fairly and sincerely recanted.

But, it seems, this is not so.

In the history of our Revolution, many of the dogmas which governed and caused that of France, are not only upheld, but impressed with undisguised force, as truths in political science not to be disputed; and the all-engrossing, all-reaching, inalienable *irresponsible* power of the *people*, (that nondescript and ill-defined class of beings,) who, without being controlled themselves, are to control every one else, (even the laws and constitution, and of course their sovereign,) this power is not only given them, but every use of it defended, and the impossibility of an abuse of it demonstrated; so that while the tyranny of the most tyrannous despots is made to fall before

them, a tyranny exceeding all despotism is exercised *by* them, as lawful, justifiable, and not to be resisted.

We are told that kings can do no wrong. But here the maxim is reversed: kings may be dethroned, and killed, (for war may be waged against them,) while the *people* (because people) must be always right, just, and innocent. These, from what I am able to collect from his work, are the *principles* of the British Constitution, professed and supported by our accomplished, but surely mistaken friend. I do not mean, that in so many words he has laid down the positions I have detailed; but, from many direct assertions, and many plain inferences from the propositions he holds, such are the opinions to be collected.

For in various examples,

We collect how little in reality the visions of the Vindiciæ Gallicæ, in regard to the absolute despotism of whatever is meant by the mystic term people,—

"Monstrum horrendum, informe, ingens, cui lumen ademptum,"

—how little this has been sobered down by age, or qualified by experience.

Of this we shall have abundant proofs, as well as what beautiful theories may be erected, fair to the eye, yet based upon such sandy foundations as cannot for a moment stand the touch of the practical statesman.

As a proof,

Weigh the consequences of the following sentences against the specious language in which they are conveyed :—

" It must be owned that in civilized times mankind have suffered less from a mutinous spirit, than from a patient endurance of *bad government.*"

Is this proved by the Revolution of France, or the civil war in England ?

Again. " A nation may justly make war for the honour of her flag, or for dominion over a rock, if the one be insulted, and the other unjustly invaded. But if these sometimes faint and remote dangers justify an appeal to arms, shall it be blamed in a people who have no other chance of vindicating the right to worship God according to their consciences, to be exempt from imprisonment and exaction at the mere will and pleasure of one, or a few ; to enjoy as perfect a security for their persons, for the *free exercise* of their industry, and for the undisturbed enjoyment of its fruits, *as can be devised by human wisdom* under equal laws and a pure administration of justice ?" *

Thus, because every person in a nation has not *as perfect security as can be devised by human wisdom* for the free exercise of his religion and industry, he may immediately take arms; and parliamentary taxes, which are imposed by a comparative few, and the

* Hist. Revol. vol. ii. p. 54. Paris edit.

restrictions upon trade by apprenticeship, or the navigation or revenue laws, justify revolt!

If these are Sir James's notices, what wonder if his Continuator bringing his history to perfection, and talking of a forcible resistance to oppression, holds that the *lawfulness* of it constitutes the main strength of every opposition to mis-government!*

Here the very thin veil, which had hitherto perhaps disguised the full extent of the doctrine, seems to be dropped, and the *lawfulness* of forcible resistance (that is, a right under the Constitution,) is proclaimed in unequivocal terms.

Reason, prudence, moral necessity, natural self-defence against unbearable illegal oppression, are departed from as too undefined and ambiguous authority: and it is boldly assumed that *mis-government* simply, (which by no means implies either oppression or illegal usurpation,) will *lawfully* justify rebellion.

This principle is carried still farther by Sir James himself, which we shall see more at large when we come to examine his doctrine of what he calls A REFORMATORY REVOLT; meaning that although the sovereign power, wherever it may reside, be administered according to law, yet if it restrain liberty in the opinion of those subjected to it, they may rise in arms to obtain an *extension* of it.

Though far from going to such lengths, yet in the doctrine of the right of resistance generally, he seems

* Hist. Revol. vol. ii. p.

supported by the lucubrations of another very eminent but more sober asserter of this great privilege of the people; and the wildness about mis-government, (at least if I read him right,) seems carried so far, that even what may be thought unwise policy in foreign affairs, though unaccompanied by oppression, may be a reason for revolution.

Yet Mr. Hallam is so fair and moderate in his opinions, so deep in his researches, and so generally correct, that possibly I may have mistaken him.

I, however, understand *one* of his reasons for the expulsion of James to be, the *impossibility of his ever being persuaded to join the league of Augsburg against Louis XIV.*

England's natural position, says he, would be to become a leading member of that confederacy.

But James's prejudices opposed. "It was therefore the main object of the Prince of Orange to strengthen the alliance, by the vigorous co-operation of this kingdom; *and with no other view*, the emperor and even the pope had *abetted his undertaking*.

"Both with respect, therefore, to the Prince of Orange and to the English nation, James was to be considered as an enemy, whose resentment could never be appeased, *and whose power consequently must be wholly taken away.*"

I do not mean to say that in these passages, had there been no other cause for taking arms by his subjects, Mr. Hallam asserts, that James might have been *legitimately* attacked; but, at least, it should seem that

his foreign policy entered far into the reasons for driving the Revolution to the extremities that ensued.

The object of the insurrection might possibly have been satisfied with less than dethronement; but the continental politics of William, according to Mr. Hallam, made it necessary to force on that catastrophe.

The emperor and the pope are said in terms to have *abetted* the enterprise that was to produce the Revolution, *from no other view :* and thus a difference of opinion on foreign politics between a king and his subjects, may be made one of the reasons, at least, that justify insurrection.

Do not these loose speculations, both of Mr. Hallam and Mackintosh (with proper and sincere deference to them both, be it said), make us recal with more respect than ever the sound sentiment of Burke : " no government could stand a moment if it could be blown down with anything so loose and indefinite as an *opinion* of misconduct."

Before, however, we proceed to examine the several specific conclusions, drawn from the specific facts which occur in the History, it may be convenient to canvass the subject as Sir James treats it in an express chapter on the " Doctrine of Obedience, and Right of Resistance."

Such is its formidable title.*

I shall therefore, with your permission, divide what

* Mackintosh's History of the Revolution of 1688, chap. x.

I have to trouble you with, on what may be called the *law* of the case, into three sections.

I. As to the general proposition of the Right of Resistance at the pleasure of the people, and the cases when that right may be exercised.

II. As to the famous question of the Sovereignty of the People itself, and as to their supposed *compact* with their rulers.

III. As to the exact amount and force of the historical precedent afforded by the Revolution of 1688, and the doctrines raised upon its various incidents.

To these I may beg to add two more on the character of the Revolution, and on the means by which it was brought about, with a view to ascertain whether the glory ascribed to it as an example of the principles of philosophical liberty brought into practice is really deserved.

In doing this I know full well the boldness of my undertaking;—what difficulties, what opposition, what prejudices I shall have to encounter; how little likely I am to succeed; how little popular the endeavour, if I do. But as my opinion is not one of yesterday; as it has been pondered for years, and has only been confirmed by the observation of a life neither short nor passed in ignorance of public affairs; as, in fine, my object is truth, and my sentiments sincere, I will not shrink from the task.

SECTION I.

THE RIGHT OF RESISTANCE.

With regard to this first question, we must agree with Sir James, that it is what he has called it, "a *tremendous problem*, which, though it requires the calmest exercise of reason to solve, the circumstances which bring it forward commonly call forth *mightier* agents, which disturb and overpower the action of the understanding."

It should seem, then, that in the outset, he announces at least very serious difficulty, if not despair, of ever bringing it to a satisfactory conclusion even in theory, much more in practice.

He allows that "in conjunctures so awful, men *feel* more than they *reason;*" that the duty of *legal* obedience seems to forbid that appeal to arms, which the necessity of preserving *law* and liberty *allows*, or rather *demands*. In such a conflict, therefore, he says, "*there is little quiet left for moral deliberation.*"

Little, indeed; so little, I should say, that it had been better, perhaps, to have left the subject un-

touched, as one upon which the attempt were vain to prescribe *beforehand* rules of moral conduct, in cases which must *necessarily* be exceptions to all rules.

To your penetration and logical mind I need not point out the difficulty, I might say impossibility, of reconciling the *law* of obedience to the duty of taking arms for the preservation of *law*.

This is a confusion of terms which I own it is beyond me to unravel, though I am very willing to suppose what is meant, that there is a *confliction* of duties — on one side, the duty of obeying the laws of the land, whatever they may be; on the other, that of obeying moral expediency, or the general precepts of reason and justice, should the laws of the land be not conformable to them.

Which of these is the superior, so as to extinguish the other, he leaves no doubt in the following passages.

"That there are some duties superior to others will be denied by no one; and that when a contest arises, the superior ought to prevail, is implied in the terms by which the duties are described. It can hardly be doubted that the highest obligation of a citizen is that of contributing to preserve the community, and that every other political duty, *even that of obedience to the magistrates*, is derived from, and must be subordinate to it."

Of these simple truths there can be no doubt: but observe the use he makes of them. "It is a necessary consequence, (says he,) that no man who deems *self-*

defence lawful in his own case, can by any engagement bind himself not to defend his country against foreign or *domestic* enemies."

The blending of foreign and domestic enemies is here skilfully introduced, because it should seem that it meant, generally, *enemies*, without particularising their characters; and the proposition would therefore pass without controversy. But we soon see what his true meaning (thus adroitly disguised) is, and that by domestic enemies is designated a king. "For oaths," he goes on to say, "to renounce the defence of our country, were considered as binding till the violent collisions of such pretended obligations with the *security of all rights and institutions*, awakened the national mind to a sense of their repugnance to the first principles of morality."

Do we not here at once detect the sophister, adroit as he is? For myself I profess my profound ignorance; and I ask of your far greater stores of information, to point out to me any oath recorded in our history as binding men *to renounce the defence of their country?* The search for such an oath, I am convinced would be vain. But the search for the meaning and motives of the assertion will not cost us a moment. The fallacy is unworthy so great a dialectician as Sir James. By renouncing the defence of our country, is as plainly meant, as if the words were printed in capital letters, the oath which no honest man I trust would refuse, renouncing the lawfulness of arming against our sovereign simply, and *without any addition*

of words that may denote him a tyrant. Without such addition, I own I look in vain to discover how such an oath can be a pretended obligation, in collision "with all our rights and institutions."

Yet it is thus he treats this oath. — "Maxims so *artificial and overstrained, which have no more root in nature* than they have warrant from reason, must always fail in a contest against the affections, sentiments, habits, and interests, which are the motives of human conduct, *leaving little more than compassionate indulgence to the small number who conscientiously cling to them.*"

So then! in the opinion of this great Whig light, and certainly highly cultivated man, an oath not to bear arms against your lawful Sovereign, that Sovereign, in the terms of the oath at least, not said to be stained by any act, or any design against his people, is an oath, to renounce the defence of your country, and springing from maxims *artificial* and *overstrained*, having no more root in nature than warrant from reason; and the small number of honest fools who conscientiously cling to this expression of their allegiance, are to be treated with *compassionate indulgence.*

Thanking Sir James for his compassion, let us ask where were his scruples when he took the oath of allegiance, as I dare say he often did, and swore he would be true and faithful to his Majesty.

If true and faithful, could he rise in insurrection against him? and if he swore to allegiance, could

there be any objection to swear that he would not take arms against him to whom it was due?

Had the oath indeed swore, in so many words, that a man would not defend himself *though illegally attacked by the government*, the justice of the inculpation, by the learned jurist and historian, would be admitted, without comment; but as the oath implies that the resistance foresworn is only against *lawful* commands, I am lost in wonder that any man, not an actual rebel, much more that a man so versed in the nature of laws, should have broached such opinions, which, but for the name of the author, would need no refutation.

But he rests his proposition upon the right of self-defence, which alone, he says, (and says properly,) is the justification of foreign war, and may, and will therefore justify taking arms in a war at home. To take arms against the king may therefore be in defence of your country, which by the oath you renounce.

But is that so? Or is the oath not to attack the king, the same as not to defend yourself if *illegally* attacked?

This I am yet to learn; but this I *have* learned, that these are thorny questions, which, admitting of no general solution, are most unnecessary, and can tend to no possible good, while they may practically do much harm.

A sovereign whom one law tells you not to oppose, and another law tells you not to obey, denotes, if not a contradiction, at least so difficult a problem, and such a collision of contrary forces, that it is very

wantonness to call for a discussion of them, unless driven to it by the necessity of the case; and in a time like the present, when there is any thing but an attempt *on the sovereign's part*, to overturn the laws, such discussion, it should seem, is futile and gratuitous, as well as dangerous to tranquillity.

Those, however, who wished to overturn the king, but who are unhappily deprived, by his moderation and respect for the laws, and the mildness and justice of his reign, of all power to demonstrate that misgovernment which Sir James holds a *legal* justification of rebellion, — *those* will gladly hail the discussion we have deprecated, and insist upon proving what they call the *people's* right to act as if they were perpetually in extreme cases; although as to oppression, it is evident, spite of bawling, there is no case at all.

The impossibility of ever laying down before-hand a general rule, for what, as I have observed, must always be beyond, and therefore an exception to all rule, is, I think, a stumbling-block at the threshold of the attempt, which even so excellent a sophister as Sir James, in his delightful vision of metaphysical liberty, cannot get over.

If he laid down boldly and fairly at once, (which I must do him the justice to say he pretty nearly does,) that although there may be rules and regulations for conduct which men may agree to pursue as long as it suits them, but that there are no such things as *laws* binding them beyond their pleasure, (especially if they are repugnant to what *they* choose to call reason,

of which reason they themselves are the sole judges, so that what may be reason to-day may be folly to-morrow,) if this were the fundamental proposition on which he founds his right of resistance, I should at least be under no difficulty to understand him.

The proposition would then be clear.

Why then not at once say the laws of a man's reason are always above the laws of the land, and therefore the latter may be disobeyed, resisted, and changed, (or at least an attempt may be made to change them,) at the will and pleasure of any individual whose reason tells him to do so?

This, in fact, is the gist and purpose of his whole doctrine, avowed or concealed. For, from all I have quoted, and still more from what is to come, it is evident that he means a great deal more than the mere *right of self-defence*, if attacked.

To that doctrine no Englishman would object; for then, reason, justice, and the law of nature, which self-defence is, would rise above the law of the land; and did our jurist go no farther, we should agree with him. But he here undertakes a task, in which no man can be successful, if he is not, to reduce cases which are obviously of *necessity* and unforeseen, and therefore, from the terms, can only be met by a departure from the law, to all the regularity of an enacted code. His Continuator, improving upon this, was for bringing James to "a full and fair trial,"

before the exalted justice and superior reason of the realm*, only he despaired of finding a sufficiency of it, as we shall hereafter see. I mention it here merely to show how easily this vague and loose dealing with the most important principles of high justice, and affecting the very heart and soul of civil society, may lead to the most dangerous absurdities. What is meant by the exalted justice and superior reason of the realm, it would not be easy to define, except that a trial, perhaps such as that of Charles the First was intended, probably leading to the same consequences.

Whether Sir James would have approved the extent to which his Continuator carries his principles, cannot perhaps be known. I should hope not.

Let us, however, consider farther the argument on which he builds his right of resistance.

Having, fairly and clearly, canvassed the right in nations to wage foreign war with one another, the nature of the injuries that justify, and the rules by which such war should be conducted, which he rests upon self-defence, he applies the same reasoning as governing civil war.†

"A government, (says he,) is entitled to obedience from the people, because, without obedience, it cannot perform the duty for which alone it exists — of protecting them from each other's injustice. But when a

* Hist. of Revolution, vol. ii. p. 280. † Ibid. ch. x.

government is engaged in *systematically* oppressing a people, or *in destroying their securities against future oppression, it* commits the same species of wrong towards them which warrants an appeal to arms against a foreign enemy."

This is abstractedly true; and were there any known authority in the state, (which, from the nature of the thing, is impossible,) to decide when a sufficient case of systematic oppression has arisen, a *legal* cause of war might be given to the oppressed party.

But inasmuch as independent nations are bound by no municipal laws to one another, and parties in the same state are, the comparison does not hold.

France and England have no common laws, no duties to bind them to one another, except those of reason. They are to one another in a state of nature; they have sworn to no code by which each is bound, and from which they cannot be released while it exists.

If, therefore, there is injury on either side, there are no previous duties to prevent the appeal to the sword, the only one left, the *ratio ultima regum.*

Not so with a people and their governors.

They are bound together by the strongest reciprocal duties, *expressly laid down and expounded by the volume of the law.*

It is to this they are to look in all cases of dispute; and if they cannot agree, neither party has a right to claim to be its *sole* interpreter.

There may be mutual injuries, and mutual accu-

sations, but the law remains the same, and can never authorise a departure from it at the will of either party, or declare *that a case has happened* where all its provisions are abrogated, and itself annihilated. It might *describe* the character of such a case; but who is to pronounce upon its actual existence?

Not the parties; if only because they are parties. If it say the King shall judge, that very judgment may form another and still greater case of oppression. If the people, their decision may only increase the factious conduct which may have been right or wrong, imputed to them. For want of this judge of the case, therefore, no constitution can ever contain a provision for its own dissolution; and this Sir James himself fully admits in some very able passages, introduced however in order, as kings must be constitutionally irresponsible to the legal, to make them responsible to the moral code. It is this moral code to which I object in the light in which Sir James represents it. For though it in reality mean nothing but moral obligation, and the responsibility therefore of the delinquent king is to his conscience, and his God, yet, as Sir James would manage it, it is endowed with a body, has a court, judges, the axe and executioner, to fulfil its behests.

One would suppose that if a king could not be tried by the law, he could be tried by nothing else. He might be shot as an enemy or wild beast in the act of invasion; but he could not be *tried*. Sir James, then, must explain what he means by being

morally and *rationally responsible.** If it be to run the risk of being opposed, dethroned, killed in battle, or even murdered, as some kings have been, we agree, where the tyranny warrants self-defence, in going so far; but this is not *responsibility*, which means answering for some crime *before a tribunal or judge, having power to hear and determine.*

This is not salved by the fallacy of treating the governors and the governed as different nations, perfectly independent of one another, even after the parties are bound together under a social compact, from which, as soon as they enter, the *law* of *that compact* forbids them from ever separating.

The instance which approaches nearest to it is a clause in the Bill of Rights, which declares the subjects absolved from their allegiance, and that the crown shall pass to the next heir, if the possessor of it *shall hold communion* with the church of Rome, or *marry a Papist.*

This seems a distinct description; yet what is *communion* with the church of Rome†? and who is the proper judge, and what the jurisdiction that is to take cognisance of and decide when the case has happened?

If this be not pointed out, the clause is nugatory, though it may give rise to bitter commotions.

* Vind. Gall.

† A party in England might hold that to be communion, which the church of Rome might scornfully reject.

Suppose the king do not disclose or confess his communion with the church of Rome! Or suppose he marry a *concealed* Papist, whom he may have thought a Protestant when he married her, *or who may have changed her religion after marriage!*

Would that forfeit the crown? or if it would, can *any body that pleases* say the case has happened, and may every subject feel absolved from his allegiance and take arms to enforce the Bill of Rights, without a solemn adjudication *somewhere* of the fact?

Even if that *somewhere* is held to be the parliament, may that not admit of discussion, and opposition from the king, and even from other corporations? Might not the Lord Mayor and common hall say it was for the people to decide, and that they were the people as they have often said before.

But be it that the parliament have, or assume to have, the jurisdiction, (for it is not pointed out by the Act,) must there not be a trial of the fact? Must there not be *two trials*, one in the Lords, and one in the Commons?

And may they not pronounce differently? At any rate, must not the king be allowed to defend himself? May he not be wrongfully accused? Or if acquitted, may he not be accused again and again, and thus the whole government for ever be interrupted, till all end in that very civil war, which by this attempt to legislate on a positive case of resistance it was intended to prevent?

Yet Hallam, not perhaps having all these conse-

quences before him, thinks this vague and unguarded provision in the Bill of Rights "as near an approach to a generalisation of the principle of resistance, as could be admitted with any security for public order." *

What the security is, we see.

Observe then the impossibility of any constitution, laying down beforehand a case for its own abolition.

But if it contain contradictory provisions; if it enact that a sovereign is inviolable, and has a right to allegiance, yet may be tried and judged by his people, who may absolve themselves from allegiance *whenever their reason tells them to do so*, that is, whenever they please, all disquisition is useless, for all is absurdity.

The sovereign whom his subjects are ordered to obey, is surely himself a subject—his subjects' sovereign.

Thus much then for the comparison of the causes for war between foreign independent states, and between a sovereign and his subjects.

We say they cannot be compared.

Take, however, the following propositions: —

"A magistrate who degenerates into a systematic oppressor shuts the gates of justice on the people, and *thereby restores* them to *their original right of* defending themselves by force."

The first part of this sentence is true. What is to be understood by the second?

What is the original right of the people to defend

* Constitutional Hist., vol. iii. p. 360.

themselves by force? Where, *in society*, did they ever possess this right? No where. Then if they had it, (and this is what is meant,) it must have been *before society existed*, and they cannot have it again without society being completely dissolved.

It follows, then, that before oppression can be resisted, all ties of union, all the laws, institutions, and public and private rights and duties, must be broken up.*

See what it is to be a theorist, and to endeavour to give the form and regularity of a code of law, (whether municipal or natural,) to what must be above all form or regularity. Oppression must, as we have said, be resisted by force, and the case disposed of one way or other.

But we are not on that account to fly to metaphysical or extreme rights, and by only founding them on the savage state, to return to that state.

How many young people (myself once among them), have been dazzled with the seducive maxim "Salus populi suprema lex est!" When I read my Oratio pro Milone, how did I not glow with the incontrovertible sentiment on self-defence, "Est enim hæc judices, non scripta sed nata lex; quam non *didicimus* sed *accepimus*; etiam ex naturæ *penu* hausimus, arripuimus; ad quam non pacti, sed facti; non instituti sed imbuti sumus; ut si vita nostra in tela, in latrones, in enses insideret, omnis honesta ratio erit expediendi salutis."

Nothing in the world can gainsay this, in our

* See this discussed more at large in the review of Locke, Appendix, No. V.

closets, in the recesses of our minds, in investigating the laws of nature. And what, says inexperienced youth, is to prevent the insertion of whatever these teach, in the codes of municipal or constitutional law?

Age and experience tell you at once, the want of an *impartial* judge, which cannot be yourself, who assume to yourself to pronounce *what* is the *salus* populi, what the honesta ratio expediendi salutis. Wait therefore till the case arises, and act upon your own responsibility, but also at your own risk: attempt not to legislate, that is, provide for cases which are to govern all, though, about them, all may disagree.

To Sir James's second proposition, as follows, we agree.

"As he (the magistrate) withholds the protection of the law from them (the people), he forfeits his moral claim to enforce their obedience by the authority of law."*

Now heaven forefend that we should question this as a *general* axiom in political philosophy. But, again, I say it is an axiom for the closet; to be kept in the mind, and preserved in quiet, till the occasion blazes out which absolutely requires it to be acted upon:

"Condo et compono quæ mox depromere possim."

Like Honour,

"It aids and strengthens virtue where it meets her,"

but "ought not to be sported with."

* Mackintosh's History of the Revolution of 1688, vol. ii. p. 51.

Never can it be laid down as a right, and as a duty, to be perpetually borne in mind, and constantly asserted, by every one who may think himself aggrieved — in fact *la sainte insurrection* of the French revolutionary madmen.

The total impossibility of laying down beforehand, especially in a code even of natural law, what is the *systematic* oppression, (for you see that even our friend holds that it must be systematic,) which is legally to authorise this resistance, ought to make us abstain from the attempt.

Not less is it difficult, if not impossible, in a mixed government like ours, where the sovereignty is in three estates, to designate who is to pronounce that systematic oppression has occurred, so as that the Constitution is annihilated.

It cannot be the Lords, for they are but one in three.

It cannot be the Commons, nor the King, for the same reason. It cannot be any two of them. It may certainly be in the three, but, as it is the oppression of one that is complained of, he will hardly join in authorising a revolt against himself.

Who then is to judge even under the *moral* law, is a question ever arising, never to be answered: or we must come to Paley's untenable answer, "Every one for himself," which is to authorise perpetual confusion and the right of the strongest.

In no *definite case*, therefore, can resistance be authorised beforehand. The Continuator of Sir James,

however, broaches, or rather hints, some wild notions of a power in the Lords, and therefore, *under the Constitution*, of *trying* James at the time of the Revolution.

Where he found this power, he does not, indeed, even pretend to say.

He is certainly prudent enough (whatever may be inferred,) not to rest it in terms upon the infamous mockery practised upon Charles I. But hear his words, and the occasion of them.

" Upon the entry of the Prince of Orange with an armed force into London, whence James at his command had retired, he was met by all the peers then in town, who attended him at St. James's on the 21st of December, where he told them he had sent for them to ask their advice how best to accomplish the ends of his declaration for a free parliament, and the other purposes of his landing.

" Upon this, after making some arrangements of form, and appointing officers, they agreed to assemble the next day in their accustomed House, as if parliament were sitting."

Did this, their *assembling in their accustomed Houses*, make them the lawful House of Peers even without reference to the power thus assigned them by Sir James's Continuator of trying their king?

I think not: the utmost that this author himself at first says of it is, that removing from St. James's *gave an air* of independence, and meeting in their own

house *an air* of authority to their declarations.* Thus, in the opinion of this author, they had only an *air* of legitimate power, not the reality of it.

It seems, however, they were content with this air; for, on assembling, they addressed the Prince in their capacity as the House of Peers, to take upon him the government, which he would not do without the concurrence of the Commons; and this could not be had, because there were no commons to give it.

To the discussion of this whole affair, which gave being to the Convention Parliament, we shall hereafter come.

At present, my business is with the strange, and surely indefensible doctrine, that the Lords, even had they been legally assembled in parliament, much less as a mere set of individuals, as they then were, could have brought James to trial. This, however, is broadly implied from the dicta of the Continuator of Sir James.

The king, when he was forced to leave the kingdom, left, as is known, a paper or letter stating his reasons.

This letter was laid before the Lords (such as they were), who determined that it should not be opened, and proceeded to the business of settling the nation.

In this, says the jurist, "the Lords appear to have exercised a sound discretion."

* Continuation of Mackintosh's History of the Revolution of 1688, vol. ii. p. 239, Paris edit.

" His (James's) removal once resolved *, there were two modes of proceeding to effect it: either a FAIR and FULL TRIAL, or a SENTENCE against him upon the NOTORIETY of his acts.

" It is a dangerous precedent," says the Continuator, " to condemn even a tyrant unheard; but for the former mode (pray observe this), *there was not enough of exalted justice* or *superior reason* in the realm, and the *latter* process alone remaining, the king's letter could only produce barren or mischievous commiseration." †

I own I was thunderstruck when I read these words, and thought I was reading an ebullition of Robespierre previous to the murder of Louis.

Yet even Robespierre seems to have been here a better jurist; for he laughed at the bunglers, his brother-murderers, who wished (what he knew was impossible) to give an air of *judicial* authority to the death they had resolved, and more consistently said there could be no trial where all was a " *coup d'état.*"

Upon this Mignet, the historian of the Revolution, sensibly observes he was right, and gives a lesson to men who adopt these principles, which may deter them from the wild enterprise to bring a case of necessity under a regular code, be that code legal or moral. " Les plus grands torts des partis," says Mignet,

* Query, by whom? when? where?

† Continuation of Mackintosh's History of the Revolution of 1688, vol. ii. p. 280.

" après celui d'être injustes, est celui de ne pas vouloir le paroître. Le parti de Robespierre se montra beaucoup plus conséquent en ne faisant valoir que la raison d'état, et en repoussant *les formes* comme mensongères." *

The preacher, therefore, of the doctrine relative to the trial of James, is greatly behind Robespierre in not fairly putting the case upon its true grounds, and in endeavouring to give it the character of a *judicial* proceeding, he equals him in his zeal for a *coup d'état.*

The " Vindiciæ Gallicæ," however, that warm and eloquent apology for the atrocious departures from justice which blasted and disfigured the French revolution, would have better defended the sacred rights of the people, to rise in what he calls " VIRTUOUS INSURRECTION AND NOBLE DISOBEDIENCE."†

Upon these positions, and this apology for the Lords for not bringing their king to trial, much is to be observed.

For when we talk of *trial,* the very word (I suppose it will not be contested) implies a number of important associations, familiar in England to the meanest mind.

* Mignet, vol. i. p. 316, 317.

† " The garrisons of the cities of Rennes, Bordeaux, Lyons, and Grenoble refused, almost at the same moment, to resist the *virtuous insurrection* of their fellow-citizens. Nothing but sympathy with the national spirit could have produced their *noble disobedience.*—Vind. Gall.

Laws: *competent authority*, *legal* power to inquire, rules of evidence, *legal* power to punish, preceding decisions, *legal* judges, *legal* juries, and, above all, the *legal* maxim that accusers shall not be judges.

Yet not one of these, in the pure and sacred fury of this successor of Sir James in Whiggism, ever seems to have come across him. Though a lawyer, a man of research, and evidently habituated to the investigation of all the bearings of judicial maxims, the extent and the consequences of departing from old, or of establishing new, precedents.

He talks of *bringing a king to trial by his subjects* (who, the law says, can never be tried, and whom all received notions have ever treated as inviolate), as if it was a matter of every day's occurrence, and a court was always open for the prosecution of monarchs.

"There were but two modes of proceeding," he says,—"either a *fair* and *full trial*, or a *sentence* upon the *notoriety* of his *acts*."

A most compendious way, it must be owned, of disposing of what he calls "this tremendous problem." *

I need not say that "*sentence*" without trial is the grossest tyranny; this even James himself never attempted. It therefore implies trial, or, at least, inquiry. But what trial? What inquiry? Why, into

* Continuation of Mackintosh's History of the Revolution of 1688, vol. ii. chap. 10.

the *notoriety* of acts, not acts themselves; and who is to judge? the accusers.

Who are the witnesses? the accusers. Who the accusers? any body! man, woman, or child.

What the evidence? hearsay, report, common fame!

Can such a farce stand for a moment in the justification of a *sentence* that must at least be judicial?

Do we not here, on the contrary, see the dark-minded, mischief-brooding, intolerant Whig bigot, St. John, who, pressing by illegal means, even unto death, upon Strafford, the object of his fear and of his hate, did not blush to say that he had no right to plead law, because he had broken law, and that although we gave law to hares and deer, for they were beasts of chace, it was neither unfair nor cruel to destroy wolves and foxes, for they were beasts of prey. He therefore thought that Strafford was to be hunted down in a different manner from lesser criminals.

An excellent illustration of Robespierre's *coup d'état*, and of the purity and superior virtue of popular justice! According to this dogma, worthy of Jeffries or Nero, the breach of the law is assumed as proved: and no man, however unjustly accused, could ever have a trial. Yet this bloody man, a prototype of Danton and the rest of the French patriots, was made Chief Justice, and is worshipped as a deity of liberty by those who think we have still to go in quest of it. He did to Strafford, what Jeffries did to Sidney.

Those statesmen who think themselves free from all laws, but of policy, may adopt the coup of Robespierre; but if they pretend to the character of jurists, let them explain, if they can, what is meant by a *sentence, founded on a notoriety of acts*, and particularly what the sentence on James might or might not have been.

No limit to it is at least stated by Sir James's Continuator; and it might therefore have been, not merely dethronement or banishment, but imprisonment, or death itself.

But the laws of reason and morality are paramount to the laws of the land; and however low in the scale may be their interpreters, yet, with the gibbet, and the cry of à la lanterne to support them, they must be obeyed.

Of a truth we have profited much by the march of reason.*

As to *notoriety* of *acts* being a ground for a judgment on James, it was only one of the French maxims of justice, and as such had quite sufficient to warrant it. It, indeed, governed higher, or at least more regular, tribunals than the mob. I remember, in the French Revolution, a Monsieur du Patye brought before a court erected in the south. The jury (for there actually was a jury) said, neither the court nor the prisoner need trouble themselves, for it was known he was guilty, and he was accordingly,

* Was not Lord Stowell right in asking, so quaintly, whether the march of reason was the rogue's march?

by *a sentence founded on a notoriety* of *his acts*, transferred at once to the guillotine.

Nor was this more than was done by those who, in their zeal for liberty, would have destroyed every vestige of it,—I mean the parliament of 1633, who voted that common fame was ground for impeaching the Duke of Buckingham of high treason.

The reason for not adopting the other alternative, namely, bringing James to a "full and fair trial," was, we see, the *want of* "*enough of exalted justice, and superior reason*, in the realm."

That is, of course, (or it means nothing,) exalted justice and reason to form and go through such an exalted and reasonable undertaking, as to try James and decapitate him as they had done his father.

Unhappy England! to have so soon lost "the breed of noble bloods" that once adorned and elevated your character.

Not one Bradshaw, Cromwell, or Ireton left, to form a high commission court to manufacture and execute an *ex post facto* law, and destroy a life which all law forbade to be attempted.*

But leave we these revolting doctrines, which can

* It may not be irrelevant, in winding up this part of the subject, to mention a conversation between a warm-minded young senator and the cool-judging venerable Lord Eldon, on the disposal of Buonaparte, when he was brought prisoner to Plymouth. "Might he not be tried and executed as a murderer and treaty-breaker, under the law of nations," asked the younger politician. "I should have no objection," replied Lord Eldon, "to sit upon his trial, and even pass sentence, if *you* will draw the indictment." The young senator was mute.

do no good; and whose only effect can be to inflame more violently brains already too much heated.

I am glad, therefore, to turn to something like redeeming qualifications of the right of resistance, which Sir James has preached; and which, though only arising from *prudential* motives, and recanting no principle, however dangerous, are so wisely conceived, and so clearly expressed, that it cannot but do good to those who may be led away by his theories, to observe what mischiefs he himself allows they may engender in the practice.

Having given, as we have seen, though, I think, most incorrectly, the same right of war to a people against their governors which belongs to independent states against one another; and having observed, that in all wars, foreign and civil, there may be failures, he adds, "But the evils of failure are greater in civil than foreign war. A body of insurgents is exposed to ruin."

The probabilities of success are more difficult to calculate in cases of internal contest, than in a war between states.

"An unsuccessful revolt strengthens the power, and sharpens the cruelty of the tyrannical ruler:" (ought he not to have added, — and also of the tyrannical tribune, or rebel?)

"It is almost peculiar to intestine war, that success may be as mischievous as defeat. The *victorious leaders may be borne along by the current of events far beyond their destination; a government may be over-*

thrown, which ought to have been repaired; and a new, perhaps a more formidable tyranny, may spring out of victory."

Pretty well this for the author of the "Vindiciæ Gallicæ," who upheld all the acts of that Assembly, which, in one night's madness, overthrew all the institutions of ages in an empire, so flourishing, that it was impossible for all of them to be worthless or unjust. How well these speculations were illustrated both by the actors in the rebellion of 1641, and the French Revolution, to you I need not remark. Let us, however, go on.

"A regular government may stop before its fall becomes precipitate, or check a career of conquest when it threatens destruction to itself. But the *feeble authority of the chiefs of insurgents is rarely able, in the one case, to maintain the courage, — in the other, to repress the impetuosity, of their voluntary adherents.* Finally, civil war brings the same, or worse evils (than foreign) into the heart of a country, and the bosom of families. It eradicates all habits of recourse to justice, and reverence for law *: its hostilities are not mitigated by the usages which soften wars between nations; it is carried on with "the ferocity of parties who apprehend destruction from one another; and it may leave behind it feuds still more deadly, which may render a country depraved and wretched through a long succession of ages. As it

* No wonder when the object of one or both sides is to destroy the law.

involves a wider waste of virtue and happiness than any other species of war, it can only be warranted by the *sternest and most dire necessity.*"

Now, I ask again, Who is to judge of this stern and dire necessity? The answer is, Any man. Necessity, therefore, is the rebel's as well as the tyrant's plea.

"The chiefs of a justly disaffected party," he goes on to say, "are unjust to their fellows and their followers, as well as to all the rest of their countrymen, if they take up arms in a case *where the evils of submission are not more intolerable*, the possibility of *reparation* by pacific means more apparent, and the chances of obtaining it by arms greater than are necessary to justify the rulers of a nation towards their own subjects for undertaking a foreign war. A wanton rebellion *is one of the greatest of crimes.* The chiefs of an *ill-concerted* revolt, however provoked, *incur the most formidable responsibility to their followers and their country.*" *

So far Sir James in this masterly picture of the horrors of civil war, enough, one would think, to have made him pause longer than he did in explaining or proving the *right* to commence it.

Of this in these passages he says nothing, and it is obvious that the hesitation he touches upon is that

* We shall see presently, on the enterprises of Argyle and Monmouth which Mr. Fox approved, how totally he must have disagreed with Mackintosh in these sensible observations.

Wild, therefore, as Mackintosh was, Mr. Fox appears wilder.

which proceeds from prudence alone, not from any consideration of legality, or any of the causes that may in his mind justify it. In this indeed he only follows Mr. Fox, who, in the vehemence of debate (I trust it was no more), declared openly that it was only a question of prudence whether or not the people should obey the laws. Both, according to my view, were wrong.

To be sure Sir James makes one admission, which is of importance, and which I own I did not expect in his zeal for the popular right. He does allow that in the exertion of this right, a government may be *overthrown* which ought only to have been repaired; and this solitary and feeble qualification of the right to rebel, is the only redeeming accompaniment to the doctrine we are examining. All the other dissuasions from plunging a nation into the miseries and dangers he so forcibly describes, are founded upon prudential fears alone.

A wanton rebellion is one of the greatest of crimes: the chiefs of an *inconsiderable* and *ill-concerted* revolt incur a formidable responsibility. Why? Not because rebellion is a crime *per se;* not because revolt when *they choose* to think it necessary, is not one of the *inalienable* rights of the people, but because the revolt is inconsiderable and *ill-concerted.* If extended and well managed so as to promise success, then all is fair, warrantable, and legitimate.

Hence he winds up in that generality of language which befits an oracle, but is the bane of a jurist,

and which his logic ought to have taught him was the parent of error *, that "an insurrection, rendered necessary by oppression, and warranted by a reasonable probability of a happy termination (again justification by success, or the right of the strongest,) *that such an insurrection is an act of public virtue, always environed with so much peril as to merit admiration.*" Thus, whenever in the judgment of any man a king's life ought to be attempted, though the assassin may fail and be hanged, he will always merit admiration, on account of his gallantry. In this sentiment Sir James is at least practically supported by the late attempts against the king of France, which, though they failed, call forth the admiration of some of our generous English patriots.

And are these the results of learning, of studious and cool reflection, of thought, and philosophical as well as historical research?

Are these the apothegms of an experienced lawyer, a senator, and a judge; or a wild youth, boiling over with momentary enthusiasm and present feelings, and totally regardless of sober principles?

What is oppression?

Still more, systematic oppression?

Will, or can any constitutional code, can even Sir James answer, so as to describe the exact case, when, to what degree, and by whom it is to be perpetrated, to justify revolt?

* In generalibus versatur error.

The what, may be difficult to lay down as a practical case; the who, still more so.

Is every act that may be irregular, or even illegal; is every thing that demagogues may choose to call misgovernment, (for that, we see, is one of the justifying causes in this profound casuistry,) — is even palpable error universally acknowledged, to be a signal, and an authority for rising and breaking up the social order? for successful rebellion does no less.

Then as to the personality of the oppressor, is that to be confined to the king? *May it not be in other irresponsible branches of the legislature*, the Lords, the Commons, the parliament without the king? The laws themselves though ever so regularly enacted?

Such things are, and, still more, have been; and if oppression, be that of which any one of the millions who constitute the people, are, and ought (if Mackintosh is right,) to be legal judges, when or how can any community be safe?

The sword, and the musket, the axe and the gibbet, will be in perpetual employ; we must again embattle our houses against robbers in the form of patriots! and the *guerre aux châteaux*, which desolated France, may devastate the peaceable fields of Britain.

If oppression, too, (explained by every man's own feeling) is to *legalize* revolt, may not the king himself be the oppressed party, and revolt against his people? Suppose the Commons arbitrarily refuse supplies in order to overturn the government, or repeal the union with Ireland or vote any other madness —

their power to do this would be *legal;* but would it not be *oppression,* and according to the doctrine, legalise civil war? May not a king be reduced to self-defence from moral causes as well as the people?

God knows there have been other quarters, besides the king, from which oppression the most bloody, scandalous, ferocious, and unjust that ever was heard of has emanated. Such an oppression has destroyed all fair security for the people's liberties, though perpetrated by the people's representatives.

For the truth of this, I need only refer to the period preceding our Revolution; embracing the history of the Long Parliament of Charles I., and the latter parliaments of Charles II.

Be not afraid; I am not going to discuss the great abstract question between perogative and law. I am not about to examine who was *originally* right in the quarrel—Charles or his parliament: for I am free as Hampden or Pym could have wished me, had I then lived, to say that the early acts of Charles were unjustifiable and tyrannical; and though allowances might be made for the errors of his education, a yielding temper exposed to the influence of favourites and evil counsellors, and, above all, for the darkness of that unsettled time, when the Constitution was so ill understood from the long, long prevalency of precedent against law; yet this will never deliver him from the charge of an *exercise* (though he was not guilty of an *assumption*) of arbitrary power. This, though not peculiar to *him,* justifies all that was done

at first by the parliament; and what Falkland or Selden proposed or approved, no free man would, I think, disapprove.

But when that parliament was triumphant; when the king saw his errors; when all that was wrong, was righted; when all possible security for good rule was given; and every reasonable desire of the Commons was granted, consistent with the existence of the monarchy; — in short when men who began as patriots, ended as rebels, and showed that every concession made them not only more unreasonable, but traitorous, then did they show, in their turn, that the representatives of a people can be as selfish, grasping, and dishonest — as arbitrary, cruel, and oppressive — as implacable, bloody and insolent, as the worst monarch that the worst times ever saw.

The Commons in the Long Parliament, as we have seen, murdered Strafford and Laud.

These guardians of the Constitution, who complained of the wresting of the law, invented a law by their own authority, which broke down all security, by setting loose what was thought the palladium of liberty, the *definiteness* of the law of treason.

This was done when they made the new crime, of *an endeavour to subvert the fundamental laws*, on which the Statute of Treasons was totally silent; done still more when, in order to destroy Strafford, they invented, in the very spirit of legal murderers, a new species of proof, called *accumulative* evidence, by which many actions, either totally innocent, or cri-

minal in an inferior degree, were held, when united, to amount to treason.

In what did the confessed wresting of the law, in Sidney's case, exceed this infamy? and when in that case, or any other prosecuted by the crown, was it ever proposed to prosecute the counsel for a man accused of treason, as partaking of it himself?

This was reserved for an immaculate representative of the people, in the person of Strode.

Well might Hallam call this a monstrous proposal*, yet it was but of a piece with many others. Need I add the murder of the sovereign himself for treason which was never heard of in the law, and could not be committed? The scandalous injustice pursued by the committee of management, to hunt out evidence against Strafford, is also shocking to an Englishman's notions of law or fairness.

While the object of their rage was close prisoner in the Tower, with no means to collect evidence on his side (certainly not by compulsion), this committee of rancorous enemies had power to examine witnesses upon oath, compel the production of papers, and scrutinise the whole life of the earl. Does not the feeling revolt at this, as base, cowardly, and tyrannical, and what, if practised by a king against subject, would have set the Commons in a blaze? Practised by the Commons themselves, it was only a noble defence of liberty.

It is true, in common criminal cases, a grand jury

* Hallam's Constitutional Hist., vol. ii. p. 215.

examines upon oath, to say whether there is ground for a trial; but, that found, what should we say to a power given to the counsel for the prosecution, to examine witnesses upon oath *out of court*, and, by examination, tutor them?

So sacred, however, is the flame of democracy that it purifies the grossest breaches of decency and justice.

They seized a judge (Berkeley) whilst sitting on his very tribunal to make him answer, for what? — His opinion upon a point of law brought before him, in his judicial capacity; and though that point was ship-money, and he might be, and was, wrong in his judgment, where would our rights be, and where the use of writs of error, if this were legal power?

Their impeachment of Berkeley, as well as Lord Finch, for high treason, is allowed by Hallam himself to have been as little justifiable in point of law as that of Strafford.

But, as has been observed, the people can do no wrong, nor (unlike in this the inviolability regarding the king) their ministers either.

They then invented another new crime, called *delinquency;* which, from its very indefiniteness, was the height of tyranny. Under this, lieutenants of counties, who had only exercised the powers necessary for their offices, and warranted by precedent, were of a sudden voted to be criminals.

Without a pretence of authority, and evidently, therefore, becoming themselves guilty of delinquency,

they commissioned Harley, one of their body, to destroy all altars, images, and crucifixes. *

All Papists and Arminians were declared capital enemies to the commonwealth.

What here becomes of liberty of conscience, when to doubt that God had predestined people to damnation was made a political crime?

Petitioners in favour of monarchy, or the church, were sent for, and prosecuted as delinquents, and imprisoned.

What imprisonments of Charles were ever equal to this? and where would the nation be now, if this were the assumed power of the Commons?

Reflections on Pym were treated as breaches of privilege; and Holles had the impudence, in a speech to the Lords, to demand the names of those peers *who should vote against the sentiments of the Commons.*

There were tumults enough, but Pym said, in his place, that "the people must not be restrained in the expressions of their *just desires.*"

To be sure this was imitated by a minister of our own day; who, in defending a mob, who were said to have carried a tricolour flag, and who, also, no doubt, had *just desires,* asked, with amiable simplicity, "Who but must respect the expression of their opinion by *the people?*"

In those times, as now, there was an outcry against

* This was executed with such zeal by Harley, that he would not allow any where one piece of wood or stone to lie at right angles upon another.

the bishops, immortalised by Butler, in a well-known distich." *

On one occasion, in going to attend their duty in parliament, they were set upon by a mob, insulted, and prevented.

They complained to the House, that they had been menaced and assaulted, and could no longer with safety attend in their places; and, in the mean time, protested against all that should be done in their absence.

This was unwise; but was it illegal? Still more, was it treason?

But the Commons, who desired no better, immediately impeached them of *high treason* (according to their own audacious usurpation of a power to make a new law), for endeavouring to subvert the fundamental laws, and *invalidate the authority* of the *legislature.*

What is more wonderful, the Lords had the weakness, as well as injustice, to sequester them from parliament, and commit them to custody.

If this were law, what petition to parliament might not, with a very little ingenuity, be converted at pleasure into an attempt to invalidate the power of the legislature, and therefore into treason.

These, and many more instances of usurpation, and a design to change the Constitution, have been so well summed up, and with such fairness in, as I

* "The oyster wenches lock'd their fish up,
And trudg'd away to cry no bishop."

think I may call him, a determined enemy of Charles, (Mr. Hallam,) that I think I cannot do better than follow his words: —

"After every allowance," says he, "has been made, he must bring very heated passions to the records of those times, who does not perceive in the conduct of that body (the Parliament) a series of *glaring violations*, not only of positive and constitutional, but of those higher principles, which are paramount to all immediate policy. Witness the ordinance for disarming recusants passed by both Houses, in August, 1641, and that in November, authorising the Earl of Leicester to raise men for the defence of Ireland, without warrant under the Great Seal,—both manifest encroachments on the executive power; and the enormous extension of privilege, under which every person accused on the slightest testimony *of disparaging* their proceedings, or even of introducing new-fangled ceremonies in the church, a matter wholly out of their cognisance, *was dragged before them as a delinquent and lodged in their prison.*

"Witness the outrageous attempts to intimidate the minority of their own body in the commitment of Mr. Palmer, and afterwards of Sir Ralph Hopton to the Tower, for such language used in debate as would not have excited an observation in ordinary times; their continual encroachments on the rights and privileges of the Lords, as in their intimation that, if bills thought by them necessary for the public good should fall in the Upper House, they must join

with the minority of the Lords in representing the same to the King; or, in the impeachment of the Duke of Richmond for words, and those of the most trifling nature, spoken in the Upper House *; their despotic violation of the rights of the people, in imprisoning those who presented or prepared respectful petitions in behalf of the established Constitution, while they encouraged those of a tumultuous multitude at their bar in favour of innovation; their usurpation at once of the judicial and legislative powers in all that related to the church, particularly by their committee for scandalous ministers, under which denomination, adding reproach to injury, they subjected all who did not reach the standard of puritan perfection to contumely and vexation, and ultimately to expulsion from their lawful property.

"Witness the impeachment of the twelve bishops for treason, on account of their protestation against all that should be done in the House of Lords during their compelled absence through fear of the populace; a protest not, perhaps, entirely well expressed, but abundantly justifiable in its argument by the plainest of law.

"These great abuses of power, becoming daily more frequent, as they became less excusable, would make a sober man hesitate to support them in a civil war, wherein their success must not only consummate the destruction of the crown, the church, and the

* Richmond was their known enemy, but his impeachment was for merely saying, on a motion for adjournment, "Why should we not adjourn for six months?"

peerage, but expose all who had dissented from their proceedings, as it ultimately happened, to an oppression less severe, perhaps, *but far more sweeping* than that which *had rendered the Star-chamber odious.*" *

To these forcible observations of Hallam, writing expressly on the Constitution, let me add as forcible a one of Hume, particularly forcible when we recollect that they had extorted by wily professions from the weakness of the king, that they should not be dissolved but by their own consent: — "The whole sovereign power was in a manner transferred to the Commons, and the government, without any seeming violence or disorder, was changed in a moment from a monarchy almost absolute to a pure democracy. †

These instances of oppression and barefaced usurpation have been confined to the period previous to that when Charles, pushed beyond bearing by their insolence and pretensions, tyrannising alike over him and all the nation, drove him to take arms in his own defence, and the defence of the Constitution. I make this assertion, because after all that has been written, said, or felt about liberty, and the glorious struggles of these her virtuous champions, I hold that they sought to gratify their own ambition, quite as much (many of them more) as to obtain the ostensible object proposed, with which they gulled the nation: yet Lord John Russell, in his life of his respectable ancestor, (respectable and respected, with a thousand faults,) says that the king's violence be-

* Hallam, ii. 256—259. † Hume, vi. 375.

came the cause of a civil war, and his insincerity prevented any hope of a peace.* How either of these assertions is proved we shall presently see.

As to the violence, Lord John, from the instances given, might have done well to have settled first, which party was the worst. Who really caused the war, no dispassionate or unprejudiced man will, in these days I think, doubt.

Every grievance had been redressed; ship-money, and tonnage and poundage, without grant of parliament, made illegal; the oppressive forest laws, monopolies, and rights of purveyance, done away; martial law abolished, together with the jurisdiction of the privy council, and the authority of proclamations; the Star-chamber, the High Commission Court, the Courts of the Presidents of the North, and of Wales, those instruments of oppression, (not created by Charles, but his ancestors,) these were all suppressed; even the votes of the Bishops in parliament were abolished; and the famous Triennial Bill passed, by which if the king did not summon a parliament at the expiration of every three years, the Chancellor was ordered to issue the writs, and if he did not, the sheriffs might. Moreover, the parliament could not be dissolved for fifty days after their meeting; and as if this were not enough, another act passed, as has been observed, by which they could not be dissolved at all without their own consent. This at once,

* Life of Lord Russell, vol. i. p. 37, 38.

without a war, overturned the whole Constitution, in favour of the people. What then remained to be done? Was not their work complete? Or if there were still a few minor abuses, would they not, after these great conquests of liberty over the prerogative, so easily, and some of them so fatally, granted by the king, have been abolished for asking?

Hear what the candid Hallam (I repeat, no friend of Charles,) says upon this most important epoch of this most unhappy contest: —

"It is to be observed that by these salutary restrictions and some new retrenchments, of pernicious or absurd prerogative, the long parliament formed our Constitution *nearly as it now exists.* Laws of great importance were doubtless enacted in subsequent times, particularly at the Revolution, *but none of them perhaps were strictly necessary for the preservation of our civil and political privileges.* And it is rather from 1641 (*that is, before the war commenced*) than any other epoch, that we may date their full establishment." *

Be it so. Then what occasion for the war? Did the king abrogate or break any one law that he had conceded? When he had yielded up his prerogative, (which he had previously rather misunderstood to be law because handed down from his predecessors, than strained it higher than they had done,) did he ever retract a single concession, or attempt to invade a

* Constitutional Hist., vol. ii. p. 203.

single right?* Let us speak out. The fault of the war was the insatiable private ambition of the now hypocritical patriots and lawless graspers, who, under the name of the people's advantage, as they afterwards amply proved, sought only their own.

Hence again the fair admission of Hallam. —

"From this survey of the good works of the long parliament, we must turn our eyes to the opposite picture of its *errors* and *offences;* faults, which, though the mischief they produced were chiefly temporary, have yet served to obliterate from the recollection of too many the permanent blessings we have inherited through its exertions."

By Mr. Hallam's permission, the benefit they at first conferred can never, on the other hand, obliterate from our recollection the iniquitous price in blood, and civil war, the rupture of all ties of kindred and society, the universal desolation and misery, the lasting mutual hatred and animosity among all ranks, which this infamous personal ambition of theirs cost us; I except not the popular Hampden, who perished, as it is always said, for liberty in the field. He did no such thing. Liberty was completely restored. According to Mr. Hallam himself, our present Constitution had not only been founded, but completed; and so fearful were the conspirators that the troubles should subside, that they framed their famous *remonstrance*, on the king's return from Scotland, in 1641,

* There is no doubt he violated the petition of right; but the reader is to observe the above question relates to the year 1641, long after that petition.

on purpose to keep them alive. All, or nearly all, the abuses they complained of having been redressed, far from conciliating the king, or doing him common justice, they renewed the history of their grievances, and, as there was little or nothing new, they opened all the old wounds afresh.

With what view, again ask the constitutional historian, any thing but a defender of Charles. His own words are better than mine:—

"This (the remonstrance) being a recapitulation of all the grievances and misgovernment *that had existed since his accession*, which his acquiescence in so many measures of redress ought, according to the common courtesy due to sovereigns, to have cancelled, was hardly capable of answering any other purpose *than that of re-animating discontents almost appeased, and guarding the people against the confidence they were beginning to place in the king's sincerity. The promoters of it might also hope from Charles's proud and hasty temper, that he would reply in such a tone as would more exasperate the Commons.*" *

Can any thing be more full to my point that the leaders of the Commons, Hampden at their head, were factious demagogues, instead of patriots? The picture drawn proves them infamous plotters to prevent all rational liberty; and the insincerity of the king, supposing it proved, was nothing to theirs.

* Constitutional Hist., vol. ii. p. 229. In the same spirit, he observes, rumours of pretended conspiracies by the Catholics were rather unworthily encouraged by the *chiefs* of the Commons.

Hampden, therefore, drew the sword for himself and the rebellious, not the sound part of the people.

He fought not for liberty but power.* His best friends, therefore, can only defend him by saying, that he plunged (good moral man!) like a Jesuit, into the depths of evil and deceit, to produce what to his hot brain seemed good.

I fear this may alarm, if not draw upon me the vengeance of a noble friend of ours, your near relation, the writer of his life. Let him *confute* these allegations, and I will confess my error. I am *so far* like Brutus, that

> "I shall be glad to learn from noble men."

On the subject, however, before us, the candid author whom I have quoted cannot help saying: — "In reflecting on the events which so soon clouded a scene of glory, we ought to learn the dangers that attend all revolutionary crises, however justifiable or necessary; and that even when posterity may have cause to rejoice in the ultimate result, the *existing generation are seldom compensated for their present loss of tranquillity.*"

He observes, indeed, that their very enemies confess that the parliament that met in 1640 met with

* This picture of Mr. Hallam's of the factions, proves almost the extent of Clarendon's supposed calumny of Hampden, applying to him the character of Cinna — "He had a head to contrive, a tongue to persuade, and a hand to execute any mischief."

almost unmingled zeal for the public good and *loyal attachment to the crown.*

I doubt this on the part of not a few: Cromwell, Hampden, Pym, Vane, Ireton, Strode, St. John, Martin, and a long *et cætera.*

These, had I been the king, I would have "trusted as I would adders fanged;" but let that pass.

Mr. Hallam adds that they were "not the demagogues or adventurers of transient popularity, but men well born and wealthy, than whom there could, perhaps, never be assembled 500 more adequate to redress the grievances, or *fix* the laws of a great nation.

I admit their fitness to redress grievances; I deny their qualifications to fix the laws of a great nation; or if the last be allowed, the greater was their guilt; for instead of fixing, they unfixed every constitutional law the nation possessed.

Their advocate, able as he is, fails in accounting satisfactorily for this.

"They were misled," he says, "by the *excess* of two passions (no one allows any thing for the king's being misled), both just and natural in the circumstances wherein they found themselves—resentment and distrust; passions irresistible when they seize on the *zeal* and *credulity* of a popular assembly."*

All this is philosophically true; but, as I need not observe, *accounts* for their treasons, not *justifies* them.

* Hallam, vol. ii. p. 204.

I repeat, then, more confidently from having submitted it to examination, my assertion that Charles drew the sword to defend—the parliament to destroy—the Constitution; and the more we pursue the acts of each from the point where we left them, the clearer will this appear.

The immediate cause of the war, that which produced the king's retirement from London, and the calling of the peers to the North, were, as you well know, the contest respecting the militia;—in other words, the power of the sword.

Beat out of every other hold of the monarchy, had the king surrendered this, he might as well have yielded himself in chains, have divested himself of his crown, and by solemn acts permitted the change of the monarchy into a republic.

Upon this there can be no contrariety of opinion, any more than that whatever doubts may have been started as to the king's power over the militia, as to that of the parliament there could be none.

The pretension, therefore, of that body, or rather of the Commons alone, was sheer, unqualified, *traitorous* usurpation.

Their want of right is so clear, that I know not a single passage in the history, nor any authority, except their own, that ever countenanced the proposition.

"This question," says Blackstone *, "became the

* Vol. i. p. 412.

immediate cause of the rupture between the king and his parliament; the two houses not only denying this prerogative of the crown, the legality of which, perhaps, might be somewhat doubtful, but also seizing into their own hands the entire power of the militia, of the *illegality of which step there could never be any doubt at all.*"

Hallam, also, whom for his candour, as well as his research, though in many things I do not agree with him, I love to quote, is full to this point: — "If the power," says he, "existed at all, it *manifestly resided in the king.* The notion that either or both Houses of Parliament, who possess no portion of executive authority, could take on themselves one of its most peculiar and important functions, *was so preposterous*, that we can *scarcely give credit to the sincerity* of any reasonable person who advanced it." *

The aim, however, as he very properly adds, was not so much to remove uncertainties by a general provision, *as to place the command of the sword in the hands of those they could control.* †

And how was this to be done? Why, in the bill presented to the king they themselves nominated the *lords lieutenants of every county, who were to obey the orders of the two Houses and to be irremoveable by the king for two years.*

They also sent orders to Goring ‡, governor of

* Constitutional Hist., vol. ii. p. 248. † Ibid.

‡ This was palpable treason.

Portsmouth, to obey none but the parliament, and forced the weak king to displace his own officer, and appoint *theirs to the government of the Tower.*

They usurped the government of Hull, in which they collected magazines of arms and placed them under the care of their own man Hotham, who resisted soon after the legal authority of his king. He afterwards repented, for which they cut off his head — a lesson to all weak trimmers, but thrown away upon many too near us, I fear, in the present time.

All this, be it observed, was before they had, by the tumults they had encouraged, forced the king, for his own preservation, to retire from his capital, and therefore before he had been obliged to set up his standard, which was that of the Constitution, against their standard of revolt.

This, therefore, I think is fatal to that opinion of the "*unmingled zeal for the public good, and loyal attachment to the crown,*" which Hallam has attributed to the Commons of 1640. *

This is so clear that we anxiously look for some deciding and sufficient cause for this total dereliction of all loyalty and duty — this undeniable design to destroy this part of the Constitution, by depriving the king of his most valuable and most acknowledged privilege, and conferring it upon themselves.

And what was this cause? Mr. Fox gives, if not the best, at least the most honest answer: — "When a contest was to be foreseen, they could not, consistently

* See p. 57.

with *prudence*, leave the power of the sword altogether in the hands of the adverse party." *

I think so too; and if *prudence*, how to obtain an end, is to determine the character of that end, and convert wickedness into virtue, the Commons were virtuous and right. It is obvious also that the same prudence would then make them equally virtuous and equally right, not merely in not leaving the sword in the hands of the king, but in usurping it themselves; but according to this, prudence, by turning crime into virtue, will justify any violence or breach of law. A robber, seeing the object he is about to attack, armed, shoots him from an ambush. Foreseeing a contest, "he could not, consistently with prudence," leave him the power of defending himself, or annoying the assailant. But the accounts of all who advocate the cause of the parlimentary leaders affirm their *distrust* of the king's sincerity in all the concessions he had made.

The irrefragable proofs of their own insincerity I have already given; but the discussion of this question would lead us too far, though by no means irrelevant, and would exceed the bounds I have prescribed to myself.

Some of them, however, ought to be touched upon.

They are chiefly founded upon two events, certainly of considerable consequence; but whether they amount even to a proof of insincerity on the part of

* Hist. of James II. p. 10.

Charles, much more whether it can justify the usurpation of the power of the sword, in my mind is no question.

These events were first the associations of some officers of the English army which had been opposed to the Scotch, to engage their men to march to London for the protection of both king and parliament against the perpetual tumults then going on.

Next, the memorable indiscretion of the king in going with his guards to the House of Commons to arrest in person the five members whom he had charged with treason.

That either of these were defensible in point of prudence, or perhaps in point of law, no one will pretend to say. That they amounted to a design of the king to undo all he had done in favour of liberty, much more to even a moral right to take from him the sword and transfer it to themselves, thereby destroying the Constitution, may be strenuously denied.

The attempt by the officers, though least remarkable, is the least defensible, of the two, though neither are defensible. The association formed was to engage the men in a petition to the king and parliament, representing the great concessions made by the crown, the insatiable designs by turbulent spirits to overturn the Constitution, and the tumults excited by these spirits, endangering the liberties of parliament; they therefore offered to come up and guard that assembly. "So shall the nation, they conclude with saying, be vindicated from preceding

innovations, and be secured from the future which are threatened."

This was the head and front of the offence.

Now, if a set of constables, or an association of gentlemen, or any description of persons not soldiers, had presented such a petition, the usurping Commons (agreeably to all we have been narrating) would certainly have sent them all to prison, or probably impeached them. But would they have been justified in this? would the petition have been illegal? and supposing the king had countenanced it, would that have been a proof of his insincerity *in all that he had done?* I should say, no.

Then what difference, *as to that question*, is made by the circumstance that the petition was to come from soldiers instead of civilians?

I do not justify the interference of soldiers in any matter of state, or the propriety of their giving an opinion on *any thing*. Arguments or recommendations at the point of the bayonet must ever be condemned. *Inter arma silent leges.* This association, therefore, was utterly unconstitutional, and cannot be too severely reprehended; and the approbation which the king gave to it, was only an additional proof to the many he had given of his rashness, weakness, total want of judgment, and entire ignorance of his true situation. But this is not the question which only concerns his sincerity.

That by thinking he could protect himself, he meant to make war upon the parliament, repeal the laws he

had passed, or retract any thing he had done, could, in my opinion, have only been held by those, who, for their own purposes, had already made war upon *him*. That it proved folly, indiscretion, and incapability of surmounting the cruel difficulties with which his abler opponents (some of them as wicked as able) had surrounded him, is most true. That it showed dishonesty of purpose, and intention to resume his power by the sword, is said, and by some may be believed, but not proved.

Mr. Hallam himself, while he calls it (mistakenly, I think,) a "*demonstration* of an intention to win back his authority at the sword's point," with his usual fairness allows that "it is equitable, on the other hand, to observe, that the Commons *had by no means greater reason to distrust the faith of Charles, than he had to anticipate fresh assaults from them* on the power he had inherited, on the form of religion which alone he thought lawful, on the counsellors who had served him most faithfully, and on the nearest of his domestic ties."*

A brave admission from an antagonist; and had Charles really attempted what is imputed to him, might have possibly justified it on the same principle of self-defence, *which Sir James assigns as the full justification of a subject to take arms against his sovereign.*

We come now to that other case of invasion, in appearance, far more overpowering at first sight, but

* Vol. ii. p. 250. This last was soon after verified by the impeachment of the queen. By what law, or for what crime, God knows.

I think a far less proof of insincerity, or design to make war, than that we have been examining.

In these days, that the king can enter either House of Parliament, with or without an armed force, to arrest any of its members, even convicted, much more only charged with treason, will not bear stating. It is as preposterous as Mr. Hallam holds the assumption of the power of the sword by the Commons.

To violate the hall of free debate by such a proceeding, would deprive its members of all power of debating. And, though much may be said of the difference of the times, the then unsettled state of the question between privilege and prerogative, and the entire novelty of the case, there can be no doubt whatever, that the conduct of Charles on the occasion was still more rash, foolish, and illegal, than when he so unwisely assented to the association of the officers.

But recollect, my comment (for it is any thing but a defence,) is not to defend its legality, but to question its being a proof of insincerity, or of a resolution to *make war* upon the parliament.

How was it a war? The attorney-general had been ordered to prosecute the five members for high treason.

I suppose it is possible for members of parliament to commit treason, and not illegal to be made to answer for it. On the contrary, it never was pretended, — no maxim of law, indeed, was ever more established, than that privilege of parliament did not extend to treason, felony, or breach of the peace.

Members are at this day sequestered from the House, for trial, when they are guilty of crimes, and yet their privileges are not invaded. Well, the House was called upon to deliver them up to the judicial power; but instead of sending the members, they sent a message. This was a delay of that justice which they exacted so rigorously from every body else: witness their seizing Judge Berkeley upon the bench itself, in the very act of trying a cause.*

What was the executive power, thus eluded, to do? As long as the accused remained among their colleagues, though they might have been guilty of a hundred murders, were they to be held safe, and defy the judicial power? Yes! say we in *these days*, when the nature and necessity for guarding privilege is better understood; and yes! say I; for it is safer for the freedom of the Constitution to run the risk (an impossible one it should seem) of the House securing a traitor from justice, (if it be so unwise, and have the power to do it,) than to give a right to the officers of the executive to enter their precincts at pleasure, and disturb them in the exercise of their functions.

But no House would *now* be so unwise, so unjust, as this was, to aid and conspire to elude the demand of the law against an accused member. They would, as they actually do, virtually comply; for if a member offend the law he is always amenable to it, the judicial power apprising the House of the proceeding.

* Hallam's is the best defence for the non-rendering the members—*the want of regular process.*

Thus far, then, there could have been no complaint against Charles, for ordering the five members to be prosecuted, and consequently arrested, had he, or any one in his name, not entered the chamber itself in the course of the process. His conduct in applying to the House first was the reverse of war; it was a decorous and praiseworthy consideration, which met with an ill return. Set, as it were, at defiance, by what he considered rebellion against his lawful authority, he resolved, with his usual rashness and impolicy, to overpower resistance in the bud, by what, at very best, was a gross irregularity.

This is granted to its fullest extent. It was a palpable and most violent invasion of privilege; but it was an invasion proceeding from mistake, from misunderstanding, not as intentional breach of the law. It was any thing but intentional war. The law itself was then obscure, or at least not so clear as it is now: even now there are many cases of privilege, which, from their being apparently opposed to justice, and liable to passionate discussion, are painful and difficult to deal with. What must it have been then, when the subject was so new, unprecedented, and unsettled!

Do I justify Charles? No! He was wrong, rash, hasty, ignorant; but he was not *insincere*, the only point I deal with. He planned no armed interference to do that by power, which he *thought he had a right to do by law;* he recanted nothing that he had admitted; he cancelled no promise; he attempted

no repeal of any thing he had conceded. Once set right, as to this ill-understood and unfortunate proceeding, it never would have been repeated. Had he meant war, or to put a force upon the parliament to *recover his authority*, his soldiers would have entered the House with him, as they did with Cromwell, who, perhaps, was the loudest in the outcry on this occasion. He would not have confined his measure to a legal process against five members whom he had accused of treason, but would have *purged* the whole House of his enemies, as the same Cromwell afterwards did through Colonel Pride.

I think this is decisive of the question of sincerity; and I repeat, these observations are not to defend the measure, either on the score of legality or prudence, but to repudiate the stale and wily position which was founded upon it by far greater hypocrites and tyrants than Charles, that as he had appealed to the sword, they had a right to take it from him.

Be it so: But will that confer upon them the right to give it to themselves? This is the nipping point. Grant that he had no power over the militia. They had already reduced it, by annihilating the power at least of the lords-lieutenants. Their fears were therefore groundless. But they sedulously and cunningly kept them up, in order to seize the command of the military themselves, the only thing wanting to crush the king, and render their own power omnipotent.

Grant then all that is desired as to the intention

to make war; load Charles with all the reproaches that were vented upon him, and convert calumny into truth;—we will allow that the most accomplished gentleman, and the best husband, father, and master in England, was the most execrable of tyrants; will that do more than justify taking arms against him (taking his life in battle if you will)? Will it justify you in the total overthrow of the whole Constitution, and the arrogation of all power to yourselves? Suppose he had fallen in battle, would you not have been delivered from his tyranny, which you allow was only personal? Had his son no rights? Were not the laws safe? But no! that would not have suited your own ravin. You must yourselves be tyrants over the people whom you pretended to secure from tyranny.*

For observe the state to which things had been reduced. By voting every thing that could be done in public or private, within the scope of their privileges, *of which they were the sole judges*, in the very spirit of the corrupt and lawless tribunes of Rome, they, the Commons, had usurped a power to interfere in every function of government, and every private proceeding of life. By the weakness of the king, whom they so hypocritically pretended to fear, they

* This word *secure*, we shall presently see, is of momentous consequence in Sir. James's code of the law of resistance. He says you have a right to take *security* from your kings for good government. I suppose those modest exactions of Hampden, Pym, and the rest of the virtuous patriots, are the sort of securities meant.

had become independent for ever, whether of him or any other power in the state. Thus they were completely tyrants in power as well as disposition; and that their tyranny might be above all chance of resistance, they now claimed the power of the sword, and drove the king to war rather than renounce it.

This was so palpably nefarious, that Hallam, who throughout inclines to their cause, allows that no man has a right, even for his own security, to subvert his country's laws, or plunge her into civil war. But this admission draws from him the somewhat extravagant opinion, that Hampden, Hollis, and Pym, might *not absurdly* consider the defence of English freedom bound up in their own, assailed as they were for its sake, and by its enemies.*

That these *innocent* persons might consider English freedom bound up in their own, is very likely; that they could so consider it *without absurdity* (if by that phrase we mean reasonably) I do not admit, any more than that having been charged with high treason, of which it is more than probable they were guilty, is a proof that they were assailed, because friends to liberty, by its enemies. The excuse, then, with submission to their apologist, absolutely fails.

Away then with all notion that this was a war in defence of the people's rights! It was a war in defence of the leader's wrongs, and all the blood that was afterwards spilt was upon their heads.

* Vol. ii. p. 239.

From these considerations, the defence they set up for their conduct, grounded upon their *fears*, becomes absolutely ludicrous. Well might the king say, "You speak of jealousies and fears! Lay your hands on your hearts, and ask yourselves whether I may not likewise be disturbed with fears and jealousies."

They had desired him not to quit London, where, like the scoundrels of the French Revolution, they knew they could rule him by their mobs. His answer was: —

"For my residence near you, I wish it might be safe and honourable, and that I had no cause to absent myself from Whitehall. Ask yourselves whether I have not.

"What would you have? Have I violated your laws? Have I denied to pass any bill, for the care and security of my subjects? I do not ask what you have done for *me*." *

The whole defence of the king, at this period of the history, as the whole guilt of the usurping hypocrites, and the wretched fanatics who gave them their power in London, may be summed up in these affecting sentences, as cogent from the implied argument they contain, as pathetic in the language used.

Were I to stop here (and I indeed fear you will think it is time), I imagine enough has been said to

* Rushworth apud Hume.

place the events of this too interesting period, and the real character both of them and the actors, on the right footing. That there were some real patriots among them, well intending, but misguided men, I should be loth to deny. That the most of them were at best pernicious, and many of them wicked and bloody enthusiasts — that the leaders were urged on by a criminal and infamous ambition, when they had forgotten the ardour for liberty which had originally kindled them, was my opinion from the moment I could read or think. It is so now; and has been only confirmed in my old age by all that I have since read or thought, and all that I now see.

Still there may be something wanting to complete the story of their villanies, and prove that the representatives of the English people may be as corrupt, unjust, and oppressive tyrants as any monarch whom it was their glory to oppose.

Let us then pursue the history of these patriotic Commons, after the king had escaped from their fangs and summoned his peers and other friends to attend him at York. Let us begin with the nineteen propositions which were sent to him as the terms of what, of course, they thought *equitable* conditions of peace.

They amounted to what has justly been called a total abolition of the monarchy, and afford a pregnant illustration of the correctness of the too hasty opinion of the excellent writer I have so often quoted, that this parliament had met with almost *unmingled*

zeal for the public good, and loyal attachment to the crown.

With the propositions you are familiar. To refresh the memory of others, I presume to state them.

"No man to be a privy counsellor, not agreeable to parliament.

"No deed of the king to be valid, unless it had passed the council, and was attested under their hand.

"All officers of state, and principal judges to be chosen with consent of parliament, *and for life.*

"None of the royal family to marry *without consent of parliament*, or the council.

"Laws to be executed against the Catholics.

"Votes of popish lords to be excluded.

"The Liturgy and church government to have place *according to the advice of parliament.*

"The ordinance in regard to the militia, to be submitted to. *

"That the justice of parliament pass upon all delinquents. †

"General pardon to be granted, with such exceptions as should be made by parliament. ‡

* That is, the power of it to be given to the parliament.

† Admirable attention to the rights of Englishmen. The justice of *parliament* not of the known law. Who were delinquents, was in their own breasts. If ever there was despotism, even of Nero, it was here.

‡ Whether any of their own side would come under these exceptions, we may guess; and as they had assumed the province of deciding who were delinquents, who were always friends of the king, we may know where the weight would fall.

"That the forts and castles be disposed of by consent of parliament.

"That *no peer be made but with consent of both houses.*"

Such were these famous propositions; such the honest designs of the *restorers* of our constitution, and, be it remembered, *before* the war had actually begun. It is, therefore, a still more damning proof than any yet cited, of their original intentions.

These propositions need only to be stated to give the true character of the rebellion that followed — for rebellion it was, shameless and wicked, if ever there was one. It will also show satisfactorily (or nothing will show any thing), that, granting the whole question as to the sincerity of the king, and their fears of his designs through military power, their own true design was to make themselves sovereigns, him their subject.

How was it necessary defence against an armed force, that they should appoint the privy counsellors? that the king should execute no deed that they did not ratify? that the appointment of all officers of state, and the creation of all peers, should be in *them?* that he should divest himself even of the power of a father, and his children be not allowed to marry without *their* consent?

These things are so clear that I am really lost in astonishment that any man of sane mind, on perusing these conditions, *after all that had been done*, should for one moment undergo the illusion that they were

dictated by any thing but the most scandalous ambition; and by destroying the sovereign, and removing all ancient landmarks, to arrogate all power to themselves.

The people!! What were they with these false men, but the mere tools of their designs? I have sometimes been wondered at for calling Hampden a traitor. Was he not so when he could concur, much more when he took too celebrated a lead, in this infamous conspiracy?

The astonishment is that any man, who had the character of honour, such as Essex, Northumberland*, or the Montagues, could have lent themselves to such palpable wrong!

As my point was to show that there may be to the full as much corruption and oppression on the side of

* This Northumberland might have been a man of honour, but seems throughout the war to have been a mere mass of pride, with little force of understanding; mighty ideas of his own consequence, and no reach of ability or foresight to support them.

Had he not been born the head of the Percys, he never would have been the head of any thing.

While all the kingdom was in a struggle for life and death, to be allowed to remain idle at Westminster, a mere man of quality, not discompose himself, but think all about him unmannerly knaves, seems to have been his only ambition. A sort of Mr. Delville in Cecilia, or a modern Exclusive. His pomp was a little taken down by Cromwell in the act of administering to it, by making him one of his lords, which taking as an affront, he never would sit with his vulgar colleagues, such as Colonel Pride the drayman.

He seems to have been of no real energy, and not at all worthy the good fortune that attended him.

a people, as of a king, this might suffice: but there are minor instances,—instances not unworthy of perusal in establishing the view I have taken.

The first I will mention was, perhaps, equal to the insolent iniquity of the demands I have been reviewing. What will the most furious of their apologists say to the following vote?

"That when the Lords and Commons in parliament, which is the supreme court of judicature, shall declare what the law of the land is, to have this not only questioned but contradicted, is a high breach of their privileges." *

This was as admirably supported as the doctrine itself was constitutional; by turning critics in the sacred cause of the people, and finding in the coronation oath, that the king promises to maintain the laws, which the people *had chosen* (in Latin, *quos elegerit vulgus*). This *elegerit* they construed to mean which the people *shall choose.*† What had become of their holy zeal in support of the Constitution, when they attempted such a fraud to alter it? Was the claim of the dispensing power, for which James was dethroned, one particle more usurping than this?

When the war broke out, they impeached the Queen of high treason. For what act?

The bringing a supply of arms to the king, her

* Rushworth apud Hume, vol. vi. p. 288.
† Ibid.

husband and sovereign. Would not this have made every man who adhered to the king, nay the king himself, guilty? But it was an affront, a mean stab, which gratified spleen and low revenge: which we want not this instance to show, are perfectly compatible with the *purest and most exemplary patriotism.* It is well called by the historian of the Constitution, "a violation of the primary laws and moral sentiments that preserve human society, to which the Queen was acting in obedience."*

The next proof of iniquity was, the agreement of nearly all the members, *in order to purchase the treasonable assistance of the Scots,* to take the Scotch covenant, which pledged them to overturn the Established Church.

This they did, and either reduced it to beggary, which was the case with half the clergy; or, what was worse, forced them into perjury, to save themselves from starvation.

Soon arose the murder of Laud.

He had been impeached, and lay in prison *four years* without trial: an admirable proof of their regard for liberty.

He was now seventy, and was at last proceeded against.

But the Judges, when consulted, declared there was no *legal* treason against him; for there was

* Hallam, vol. ii. p. 279.

no treason but what was enacted by the statute of Edward III., which did not apply to his case.

So they cut off his head by an ordinance of the Commons, with which the wretched remnants of the Peers complied. *

"But what excited the most universal complaint," (I use the words of Hume,) "was, the unlimited tyranny and despotic rule of the country committees."

During the war, the discretionary power of these courts was excused from the plea of necessity. Again, you see as favourite a plea with the rebel as with the tyrant. But the nation was reduced to despair, when it saw neither an end put to their duration, nor bounds to their authority. They could sequester, fine, and imprison, and corporally punish without law or remedy; they interposed in questions of private property; under colour of *malignancy*, they exercised vengeance against their private enemies; to the obnoxious, and sometimes the innocent, they sold their protection; and, instead of one Star-

* Maynard was the chief manager on the trial, urging these illegal "treasons against him." Who can ever after this respect Maynard, or read, with satisfaction, the unfounded fine things said of him by Hurd, who makes him the hero of one of his dialogues?

Hallam truly remarks that Laud's execution, without the slightest pretence of political necessity (again the rebel's as well as the tyrant's plea), was a far more unjustifiable instance of the abuse of power than any he himself had exhibited. I know not which was most infamous in this treatment of Laud: the murder itself, or the manner of it. But patriots can never be wrong.

chamber, which had been abolished, a great number were anew erected, fortified with better pretences, and armed with more unlimited authority.

The same, or greater tyranny, was exercised in Scotland; where loans were exacted, often to the ruin of families, from all who were *suspected* of favouring the king, though ever so inoffensive. This was, as it was said, to reach *heart malignants*. Never, in this island, was known a more severe and arbitrary government than was generally exercised by the patrons of liberty in both kingdoms.

Could any thing have increased the indignation against that slavery, into which the nation, from the too eager pursuit of liberty, had fallen, it must have been the reflection on the pretences by which the people had so long been deluded. The sanctified hypocrites, who called their oppressions "the spoiling of the Egyptians," and their rigid severity "the dominion of the *Elect*," interlarded all their iniquities with long and fervent prayers; saved themselves from blushing by their pious grimaces; and exercised, in the name of the Lord, all their cruelty on men. An undisguised violence could be forgiven; but such a mockery of the understanding, such an abuse of religion, were, with men of penetration, objects of peculiar resentment.

They next declared, that the Commons of England in assembled parliament, *being chosen by the people, and representing them*, are the supreme authority of the nation; and that whatever is enacted and de-

clared to be law by the Commons, hath the force of law, without the consent of King or House of Peers. This was the sovereignty of the people with a vengeance, and, of course, no invasion of the Constitution!

In the Treaty of Uxbridge, though they had by no means yet conquered the king, who was surrounded by a rival parliament at Oxford, their exaction was as great, or greater, than in the nineteen propositions.

They claimed not only the militia, but to name all commanders by sea and land, including the lord lieutenants of Ireland, and all governors of garrisons for an *unlimited* time. What pretext had they for this but their own ambition? Hallam is excellently fair upon it, and allows that Charles had now been reduced to an impossibility of ever again pretending to arbitrary power.* Yet they required the king to attaint and except from pardon forty of the most considerable of his English, and nineteen of his Scottish subjects, together with all popish recusants who had borne arms for him.

Forty-eight more, with all members of his parliament at Oxford, all lawyers, and divines who had embraced his party, were to be incapable of any office, *be forbidden the exercise of their profession*, or to come within the verge of the court, and were to forfeit a third of their estates.

The mind absolutely revolts at these infamous pro-

* Hallam's Constitutional Hist., vol. ii. p. 303.

posals, and at the delusions of mankind, which could incline any one then, but much more now, to suppose those who made them anything but rebels.

That they were patriots acting for the good of their country is mockery to all truth; and we heartily assent to the saying of Colonel White when Cromwell sent him to clear the house of Harrison and other saints, who told him "they were seeking the Lord," "Then go elsewhere, for, to my certain knowledge, he has not been here these many years."

One would suppose that those who could risk so much character, and incur so much detestation in the minds of moderate and good men, *for the sake of the people*, were at least free from any imputation of a love of filthy lucre for the sake of themselves: and, no doubt, our modern patriots who admire them, and those who are ambitious of treading in their steps, will be startled when they are told, that, having loaded the people, whose deliverers from illegal imposts they set out with being, with taxes far beyond those imposed by the most wasteful of monarchs *, they shared openly among themselves no less than 300,000*l.*

Will not the surprise increase when we estimate what this really was?

I am a bad computer of the real or relative value of money; but are we far wrong in supposing that the pound, two hundred years ago, could command four

* It is said, though probably an exaggeration, by Clement Walker, who, however, was a zealous parliamentarian, that they amounted in five years to 40,000,000*l.*

times the amount in commodities that it can at present?

If so, let our patriots of the present day, who admire their brethren of these former times, say what they think of them for filching from their masters, the people, 1,200,000*l.* in the course of five years.

Pursue the same line of inquiry in the pensions (that never-dying source of complaint and indignation of the present time) which the parliament settled upon those they wanted to get rid of. To console Essex for dismissing him, they settled upon him 10,000*l.* (that is, of our money, 40,000*l.*) a year. Upon Richard Cromwell, 20,000*l.*, equal to 80,000*l.* a year.

Even the little job of appeasing a would-be military rival in Lambert, when he dismissed him from his command, cost Cromwell 8000*l.* a year.

What would our present economists and reformers, who feel such holy horror at the king's power to bestow a few hundreds upon a decayed or drooping family, or recompense a retired servant—much more, if done in sheer munificence towards the objects of it,—what would they think of their brother patriots if they purchased the active services, or the mere abstinence of individuals from action, at such a price?—much more, if these patriots bestowed such sums upon themselves?

This was mere robbery: what shall we say to their tyranny? Obvious and grinding in every thing, how did it not press down its objects, as if with *peine forte et dure*, as exercised by those savage oppressors the

major-generals. They wanted only the power of life and death, exercised by the French revolutionary commissioners, to be as cruel and grinding as they. They, at least, deprived their French imitators of all pretension to originality in the creation of a crime by no means unimportant, — that of being *a suspected person.* This subjected him to the tyranny of decimation, or the exaction of the tenth of his property imposed upon all royalists by that deliverer from oppression Cromwell, which, to collect with greater facility these memorable offices of the twelve major-generals, were instituted. These divided England into as many parts, and, without regard to compositions, capitulations, or *acts of indemnity*, reduced most of the royalists to ruin.

But with the royalists the oppression did not stop. Assisted by commissioners, they had power to subject whom they pleased to decimation; to levy all the taxes imposed by the Protector and his council; and to imprison any person who should be exposed to their jealousy or suspicion: nor was there any appeal from them but to the Protector himself and his council.

Under colour of these powers, which were sufficiently exorbitant, the major-generals exercised an authority still more arbitrary, and acted as if absolute masters of the property and person of every subject.

"All reasonable men," says Hume, now concluded, that the very mask of liberty was thrown aside, and that the nation was for ever subject to military and despotic government, exercised not in the legal

manner of European nations, but according to the maxims of Eastern tyranny. Not only the supreme magistrate owed his authority to illegal force and usurpation: he had parcelled out the people into so many subdivisions of slavery, and had delegated to his inferior ministers the same unlimited authority which he himself had so violently assumed." *

In conformity with this, Cromwell imposed, or collected, taxes unauthorised by law; and when one Cony had, like another Hampden, refused to pay, and, the tax being enforced, had sued the collector, Cromwell (not like another Charles) committed the counsel he employed, Maynard, Fivirden, and Wyndham, to the Tower. He also erected a high court of justice, with powers different from those known to the law, by which four legal murders were committed—those of Gerard, Vowel, Slingsby, and Hewit; "in short," says Hallam (though the eager enemy of hereditary despotism), "no hereditary despot proud in the crimes of a hundred ancestors, could more have spurned at every limitation than this soldier of a commonwealth." †

His management of his parliament is almost still more striking. He had exacted a recognition from the members not to propose any alteration in the government as settled in a single person and the parliament; and he placed guards on the House, who

* Hume, vol. vii. p. 245.

† Hallam's Constitutional Hist, vol. ii. p. 414.

turned away all members who had refused to sign this recognition. They complained to the speaker, who, requiring of the clerk the indentures of all the members, returned; and asking why the names of those who had not taken their places were not entered, was informed it was because they had not been approved by *the council;*—an admirable picture of a free representation of the people, purchased by a civil war.

The speaker then demanding of the council why they were not approved, received this most satisfactory answer, still more demonstrative of the liberty which had been acquired by the death of the king:—

"Whereas it is ordained by a clause in the instrument of government, that the persons who shall be elected to serve in parliament shall be such, and no other than such, as are persons of known integrity, fearing God, and of good conversation, the council, *in pursuance* of their duty, and *acccording to the trust reposed in* them, have examined the said returns, and have not refused to approve any who have appeared to them to be persons of integrity, fearing God, and of good conversation; and those who are not approved, his highness hath given order to some persons to take care that they do not come into the House."*

Well, you see the council here stand upon a *trust* reposed in them by the instrument of government! and though no where expressed, they implied it as

* Journals, 22d September, ap. Hallam.

custodes morum; and we have here an excellent practical lesson to those theorists (I by no means except the great names of Locke or Mackintosh), who are so fond of introducing *implied* trusts in the construction of written laws. May we not say that there never was an example in history of greater cant and hypocrisy, with a view to a violation of right, than this passage exhibits, compared to which all the usurpations and instances of insincerity imputed to Charles sink into nothing?

I think we may here take our leave of this sad and desolating picture of fraud, violence, hypocrisy, and oppression, which the history of these patriots and lawful representatives of the *only true authority*, as they are called, the people, exhibits.

I have waded, and forced you to wade, through a hideous swamp of traitorous designs, actions, and characters, which by some zealots, some mistaken men, and some villains, have been thought to have adorned, but which, I trust, I have proved have disgraced our history. If I have, I have also proved my point, that the tyranny and oppression which justifies a war of his subjects against a king, may be equally exhibited by the subjects themselves, and equally, therefore, justify a war against them.

In short, it is not by that same vaunted name, the people, that we are to be cozened.

It will not excuse, though it may varnish, crime in the eyes of hot zealots or cool knaves.

Both their power and their disposition to rob,

murder, usurp, and oppress, are to the full as great, if not greater, than in a king. It is a talismanic word, which, like other talismans, may be broken, and leave vice, if it exists, in all its naked deformity.

How greatly could I add to this picture if I borrowed the colours disclosed by the French revolution; but as my object is England, to England I will adhere.

Turn we, therefore, to the later parliaments of Charles II., and, before everything, to the infamies of the popish plot, — that dreadful scourge, which created as much dismay, and violated as many principles of justice, morality, and law, with quite as much infatuation as any act of the dethroned James.

It even exceeded him in the cruelties of tyranny. He seized no property, though he invaded rights; he took no life, though he violated laws.

I mean not by this even to palliate the legal crimes of Jeffreys, or the military executions of Feversham: they were horrors, not even extenuated by the unjustifiable rebellion and invasion that raged at the time; but James was scarcely more answerable for them personally than William for the still greater horror of Glencoe.* Even Hallam, one of his most severe judges, observes that "the strength of the

* It is true Jeffreys accuses him of much of the blood, and James was unforgiving enough. But who believes in such an authority as Jeffreys; and as to William's abhorrence of blood, we shall presently see what Mackintosh thought of it. If Sir James's opinion is founded, that the supposed murderer of De Witt would not have scrupled destroying James, the Whig king and the Tory king are about equally matched.

Jacobite faction sprang from the *want* of *apparent necessity* for the change of government. The encroachments of James were rather felt in prospect than much actual injury." He allows, too, as to Charles II., that there were no such general infringements of liberty in his reign as had occurred before the Long Parliament.* Both these seem strange avowals in so determined an enemy to all the Stuarts. Yet as to Charles II. even Lord John Russell seems to agree with him, as we shall hereafter see.

In the Whig parliament, however, which brooded over and hatched the Popish plot, neither life, nor property, nor character were safe: all was violence, prejudice, and blood; wilful perjury was rashly believed, if not suborned; and men amiable in private life, though violent in public (among them I emphatically mean Lord Russell, whom enthusiasts, as misled as himself, rank among the martyrs†), proved

* Constitutional Hist., vol. iii. p. 231.

† Mackintosh calls him the victim. Victim of what? He plotted rebellion, and was fairly tried for it, under the law that existed then, and exists now, and which was not wrested as in the case of Sidney. By fairly tried, I mean that the evidence was legal, and fairly left by the judge to the jury. See the warm encomium upon the integrity and law of that judge (Pemberton) by Sir Vicary Gibbs, while actually defending Hardy and Horne Took, indicted, like Russell, for *constructive treason*. This, however, has nothing to do with that other reason for the reversal of Russell's attainder, founded upon his jury not being freeholders. This was valid, but does not alter the moral guilt of Russell. Whether Charles might not have pardoned him with the approbation of the country and safety to himself, is another question.

themselves to be more bloody, ruthless, and tyrannical than all the Stuarts put together.

In the trial of Lord Russell, complaint was made that constructive treason only was proved, and that he was therefore condemned against law: and this was the chief ground of the reversal of his attainder. But exclusive that this constructive treason was held to be law even after the Revolution, and, to use Mr. Hallam's own expression, "established for ever"* by the correct Holt, it was upon this very species of treason that that *injured* old man Lord Stafford was condemned, *Lord Russell being one of his prosecutors.*†

* Hallam, vol. iii. p. 209.

† Are we wrong in pronouncing him *injured*, when Mr. Fox, whose party feelings transported him beyond his judgment as much as any man, allows that he was innocent, and the popish plot a shocking transaction, and an indelible disgrace upon the nation? — Hist. of James II., p. 36.

Mr. Fox does not hesitate also to say that the condemnation of Russell and Sidney was a flagrant violation of law and justice, because they had committed no act indicating the imagining the king's death, *even according to the most strained construction* of the statute of Edward III., much less was such act legally proved; so that it is impossible not to assent to the opinion of those who have ever stigmatised the condemnation and execution of Russell and Sidney as a most flagrant violation of law and justice. — History of James II., p. 38.

I pass the case of Sidney; but this opinion as to Russell, all sober lawyers, all judges, in short, all who are not more political partizans than lawyers, deny. Lord John Russell, therefore, comes to his aid by staking *his own* authority in support of that of Mr. Fox (neither of them professional), against the weight of the whole profession put together. His words are remarkable: — "I copy, with great satisfaction, the recorded sentiments of Mr. Fox — an authority, in *my opinion*, not easily matched by that of *any* lawyer." — Life of Lord Russell, ii. 65.

Upon the trial, too, of this same violent nobleman, complaint was made that his jury had been named

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Now the question is, who are the lawyers whose *professional* knowledge is thus to sink, in consequence of Lord John's opinion, before the unprofessional but intuitive knowledge of Mr. Fox? Lord Hale, Lord Holt (the last a Whig, both incorruptible), Sir Joseph Jekyll (another Whig, and proverbially honest), Mr. Justice Foster (one of the greatest authorities on the criminal law), Sir William Blackstone, Chief Justice Eyre, and Chief Justice Gibbs, who, when counsel for Hardy and Tooke, indicted for this very sort of treason, and laying then the foundation of his after great reputation, could not breathe a word against the law of Lord Russell's case, but, on the contrary, pronounced the highest eulogium both upon the legal knowledge and the integrity of Pemberton, who tried him. These are the lights, which, according to Lord John, are to be extinguished by the superior, though *lay* authority of Mr. Fox. Every one must venerate both the abilities and the integrity of character of Mr. Fox, and we ought so far to allow for the partiality and admiration of a young political Euryalus, when he hazarded this rash but generous compromise of his judgment in praise of his Nisus; but the recollection of Mr. Fox's failures, so fatal to himself and his party, on the subject of the Prince of Wales's claim to the regency, ought, one would think, to have made Lord John pause, before he denounced for comparative ignorance in their profession the brightest ornaments of that profession. However, this devotion of himself (for it is not less) to the cause of his friend, ought to spare farther criticism. It is sufficient that the spell with which, for party purposes, Lord Russell's supposed martyrdom has always been surrounded is broken by those who have most pretension and most right to pronounce upon his case, and who *have* pronounced upon it. The idea that, because Lord R., when he planned insurrection, did not mean to take the king's life, he was not therefore answerable in law for the probable consequences, is a puerility we never should have expected; and if Lord John still persists in his opinion, we hope he will not be offended if we advise him to read

by the Tory sheriff, North; but when vengeance was called for upon North by the victorious revolutionists, they were stopped by finding that he had only pursued the precedent set him by the "notorious Whig sheriff, Bethel."

"Thus had the course of justice wheeled about."

But can we quit Lord Russell without noticing what has always seemed to me a stain upon his humanity, and only shows that tyrannical subjects are as furious in the use of power as tyrannical kings. I mean the doubt he expressed of the power of the crown to remit the horrors of cruelty which form part of the sentence upon treason, and confine it to the infliction of death alone. The resolution of the House upon this *supposed usurpation* of the king, is most observable. "This House is *content* that the sheriffs do execute William, late Lord Stafford, by severing his head from his body *only*."

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carefully the reply of the solicitor-general on Hardy's trial, where legal responsibility for crimes not originally contemplated, but consequent to those that are, are irrefutably set forth. The surprising assertion, therefore, of Mr. Fox (however he may have himself believed it), that, "even according to the *most strained* construction of the statute of Edward III., Lord R. could not have been condemned," had long been ranked, and ranks still more than ever, with the consti tutional and real judges of what is or is not law, among vulgar errors. If Mr. Fox was right and the judges wrong, why did he not, when a minister, why does not Lord John, now he is secretary of state, among other reforms, set this absurd and crooked law straight?

This House content! What had they to do with it, content or not content? The execution of the laws and the power of pardoning is in the king alone: but the House here set itself above the law, and hence, according to Mackintosh's doctrine (not his language), a right of war accrued to the king against them. We say nothing of their address to the crown, praying that it would give orders for the *execution* of Pickering and other condemned priests, — a request which, as, with the exception of Pickering, their fault was merely the exercise of their religion, Lord John Russell himself, in the life of his ancestor, denominates, with reason, savage and inhuman.* The heart again sickens at these usurpations and cruelties of the Commons.

But if this could belong to the character of so amiable a person in private life as Lord Russell; if such a person could be so infuriate a party bigot, — so outrageous a visionary, what could be expected from his brother whigs, in the wantonness of assumed power.

Probably the expelled tyrant James would be obliged to yield the palm of infatuated despotism, to these champions of the people, and enemies of oppression.

Look at the acts and votes of the Commons of 1680.

Their violence in the popish plot, and the general

* Life of Lord Russell, vol. i. p. 157.

violent spirit kindled by that iniquity, had produced, as we know, petitions full of inflammatory language.

To balance these, the friends of the government dealt largely in addresses in which they *abhorred* the sentiments of the petitioners; hence the two classes of petitioners and abhorrers. The Commons, of course, abhorred the abhorrers; and because one of their body, Withens, encouraged one of these addresses, they expelled him. Will any man alive say this was not a breach of one of the best of the natural and moral rights of man — the right to his opinion? Had it been perpetrated by a sovereign according to the principles of our doctors, it would have been a legitimate cause of revolt?

But Withens was one of themselves: see how it fared with strangers.

They had no jurisdiction over real offences; but they could turn what they pleased into imaginary ones, and punish them as breaches of privilege, without appeal.

A despotism far beyond the king's, even if he were not made constitutionally responsible in the persons of his ministers. They had no ministers, and, in so far, were superiors to kings. How did they use their power?

Thompson, a clergyman, preached a sermon in which he traduced Hampden, and Queen Elizabeth, both of them long in their graves. He might be a fool; he might be a madman; a courtier; a sycophant; but what law did he break? Nevertheless,

they voted this a breach of privilege, arrested, and brought him to their bar to answer for a high misdemeanor, and compelled him to find security to answer to an impeachment voted on these charges.*

Others were brought to the bar for *remissness* in *searching* for *papists*. Where did the law pronounce this a crime? It is scarcely exceeded by the crime invented by the French murderers — the suspicion of being suspected.

Sir Robert Cann was taken into custody for declaring there was no popish, but a presbyterian plot. This assumed dominion over opinion beats, or at least equals, Domitian or Nero.

A general panic spread over the country in consequence of these infamous invasions of liberty by its immaculate guardians; and even Lord John Russell is forced to allow the practice became so oppressive, that the people began to turn their *suspicions* of an arbitrary king into *fears* of an arbitrary parliament.† At length, a Mr. Stawell of Devonshire refused compliance with the Speaker's warrant, and defied their tyranny. Their factiousness was now at its height. They resolved *nem. con.* that no member should accept of any place under the crown, or any promise of one, under pain of expulsion.

Where did the constitution give them this power, by which they invaded deeply the rights and freedom

* Journals, December 24. 1680. cited by Hallam.

† Life of Lord Russell, vol. i. p. 211.

of choice of the constituents of such members who, therefore, at least according to the doctrine, had, from its oppression, a right to revolt? Had such a piece of tyranny been attempted by the king, revolt by the Whig authorities would have been instantly justified.

Again, without inquiry, much less a hearing, they passed resolutions against Lords Worcester, Halifax, Clarendon, Feversham, Lawrence Hyde, and Edward Seymour, as dangerous enemies to the king and kingdom, and promoters of popery, for having advised the king to refuse the Exclusion Bill, though that bill had not proceeded so far as ever to be presented to him.

They resolved to refuse all supplies till the bill passed; and that any one who should advance money to the government on the security of the customs or excise, should be judged a hinderer of the sitting of parliament, and made responsible for the same. Yet what law was here broken, and still more, what law gave them this power? By such usurpation all government, nay all society, was torn up by the roots.

They closed this with resolving unanimously, but without even the mockery of the inquiry played off in the murders they committed in the popish plot, that they were of opinion that London was burnt by the Papists in 1666, designing thereby to introduce popery and arbitrary power. Yet after this there came out a *just* and *modest* vindication of the two last parliaments. I should say Risum tene-

atis, but that Somers was supposed to have had a hand in it, and our laughter is turned into regret.

> "Who would not laugh if such a man there be,
> Who would not weep if Attius were he?"

May we not apply to the last vote another line of the same poet on London's column, which he says,

> "Rising to the skies,
> Like a tall bully, lifts its head and lies?"

What think you? Could any state exist in common safety, much less peace and happiness, with such thorns in its sides? Was there not here oppression, even "*systematic oppression*," to warrant civil war?

Are kings then the only oppressors,—the only powers in the state whose acts can create a cause for resistance?

Hallam, less wild than Mackintosh, but a reasonably devoted Whig, is just enough to give its true character to such a tyranny.

"These encroachments," says he, "under the name of privilege, were exactly in the spirit of the Long Parliament, and revived too forcibly the recollection of that awful period. It was commonly in men's mouths that 1641 was come about again. There appeared for several months a very imminent danger of civil war."*

I ask, then, if an opinion of oppression authorises

* Hallam, vol. iii. p. 192.

civil war, who were here the oppressors? Charles II., bad man as he was, or his virtuous subjects?

It was time that this House of Commons should be dissolved, and it was so; but it was succeeded by a worse, in the celebrated Oxford parliament; which, from its increased heat and violence, which Hallam (no enemy to the rights of the people) observes, served still more to alienate the peaceable part of the community*, and lasted but eight days.

The chief feature of this parliament was its immitigable rage against the Duke of York, and its persevering determination to exclude him from the throne.

Yet he had offended no law; he had usurped no power; he had been guilty of no oppression: his right to the succession was undoubted.

His only offence was being a papist, — a matter between himself and his God, and for which, at that time, the law of the land did not exclude him from the throne.

The oppression, therefore, here was on the other side.

For this, however, our political casuists provide no remedy by resistance: though, probably, a duke of Lancaster in other times, if thus injured in his rights, would have little scrupled to have asserted them, in the same manner as he asserted his claim to his estates,

* Hallam, vol. iii. p. 193.

of which he had been deprived by *oppression*, and with them obtained the crown.

I do not hold that the Duke of York would, or should, have imitated Henry IV. But had the Exclusion Bill passed — if oppression justifies revolt against the oppressor, whoever he is, I see not that the *theory* would not have permitted him to have raised a civil war, had he had the power and inclination to do it.

The rage of his enemies, the Commons, was without bounds.

It evidently exceeded all limits of reason or justice.

It was offered to banish him for life five hundred miles from England, and that if he succeeded to the crown, the power should be administered by a regent in his name. Even this sacrifice of himself to the views of the Commons was rejected, and the king might have been reduced to extremity, when a quarrel between the two houses relieved, by giving him a fair pretext to dissolve them.

They had impeached Fitzharris at the bar of the House of Lords, who they insisted should try him. The Lords refused as beneath their dignity, and referred him to the ordinary courts. The Commons took fire, and voted that *whatever court should presume to try him would be guilty of a high breach of privilege.*

These heats produced their dissolution after a session (as we have said) of only eight days. But suppose, like the Long Parliament, they could not have

been dissolved, might not the right of civil war contended for, have instantly accrued?

Were there not here *systematic oppressors*, "*who shut the gates of justice on the people, and thereby restored them to their original right of defending themselves by force**," and was there any power but force to make them repair their wrong?

Sir James must therefore either allow the "*lawfulness*," to use his own term, of resisting this misconduct of the Commons, by force, or give up his position.†

And this brings me to deeper speculations.

The power of supplies is, we know, exclusively in the Commons. Suppose, in order to carry some great object of usurpation which they may have at heart, that they are so mad as to stop them! Suppose that object were to make the king descend from his throne, and turn the Monarchy into a Republic! That has been attempted.

Suppose it to be, to annihilate the House of Lords, and leave themselves without check!

That has been done.

Suppose it to be, to vest the whole Indian Empire in commissioners, appointed by themselves!

That has also been tried.

Suppose it be to banish all of a particular religion possessed of a hundred a year; or suppose it to be to give themselves several thousands a year each!

All these have been essayed.

* Supra.

† Even Locke allows this.

Suppose it to be, to give themselves a right to other men's wives and daughters; to annihilate the national debt, and produce national bankruptcy; or, which is not so unlikely as these suppositions, not only to annihilate the Protestant Church, but to establish Catholicism in its stead!

Suppose, finally, it be to make Mr. O'Connell king of Ireland, after separating the two countries!

If all, or any of these measures are not granted by the rest of the legislature, suppose ALL SUPPLIES *to be stopt!*

We know the consequences. We should immediately be left without army or navy; all miscellaneous services would be at an end; all business would stagnate, and the wheels of the state would stand still.

It may be said, that this could not be, for that these despotic Commons might be dissolved.

True: but might not the same members again be returned? The enlightened reformers of our late corrupt Constitution, in order to imbue it with the proper degree of unchangeable virtue, have given such a preponderance to numbers over property, of tribes over centuries, that, aided by the still more liberal views of still farther reaching reformers, universal suffrage — that crowning object of every just man's wish — may soon take place; and then ——!

Well, and then? who is to say that the defensive weapon of dissolution is not to fall from the king's hands, and the eternal power of the Commons, by

the eternal re-election of the same men, have the same effect as that fatal error which gave the eternity of power to the Long Parliament of Charles I.?

My *suppositions*, then, are not so fallacious; and some of them may be realised.

And if they are, would there not be *oppression*, and a closing of the gates of justice, to Sir James's heart's content, to justify our resuming our *original rights* of defending ourselves by force?

Cromwell did no more when he dissolved the Long Parliament, and reproached them with their "*misconduct*," which, we see in the oracle before us, justifies revolt. You recollect his emphatic words, when he entered with his soldiers.

He loaded them with the vilest reproaches for their tyranny, ambition, *oppression*, and robbing of the public: — one was a whoremaster; another an adulterer; a third a drunkard and glutton; a fourth an extortioner.*

Heaven forbid that such characters should be found among our present chaste and temperate representatives, or justify any modern Cromwell in using such language as this to the future representatives of the people, purified as they must be by universal suffrage.

"For shame!" said the would-be Protector, "get ye gone! give place to honester men — to those who

* See the histories.

will *more faithfully* discharge their trust. You are no longer a parliament: the Lord has done with you; he has chosen other instruments for carrying on his work."

Here we see the principles we have been investigating completely carried into practice against a parliament as well as a king; nor do I perceive how there can be any difference between the oppression and misconduct of the one and the other; for these being the creating motives for action against the one as well as the other, Cromwell was only right, nay, praiseworthy in what he did; and, of course, Sir James must approve.

This case, then, again shows that the representatives of a people, as well as their monarch, may be oppressors, and guilty of misconduct, and therefore be punished.

Who, if any future House of Commons should attempt any of the usurpations I have supposed, will be the Cromwell to resume the *original* right of self-defence, and put it in force against them, is a question which I venture not to answer; but this I think, that if such a *breach of trust* as stopping the supplies were ever to be committed for the avowed purpose of carrying any of the points I have supposed, according to Sir James a right of war against them by those who felt the misconduct would be instantly acquired, and, according to Locke, the trust being abused, the power would be forfeited, and devolve again upon those who gave it.

The cases of unjust usurpation I have supposed, are not all of them imaginary.

But are there no actual oppressions, or already enacted laws, esteemed to be such by many thousands, perhaps millions, of the people?

The game-laws, represented falsely, but doggedly, as the tyranny of the rich over the poor; the corn laws, decidedly bearing, however unjustly, the same character; the poor laws, tyranny itself, and even inhuman; the national debt, that incubus, which might be annihilated at a stroke; the trappings of the monarchy, which republicans say would maintain many a commonwealth; the pension list, emphatically "framed for the worthless few, at the expense of the virtuous many;" the church-rates, the tithes, and a thousand obnoxious taxes, particularly upon newspapers, monopolies, arrests for debt, and even the marriage act; both of these last, oppression, and invasion of man's natural rights! Surely there are here grievances enough, in our unhappy and rough-ridden country, to make us, according to Sir James's doctrine, rise to a man, and use our original power of resistance; or at least of administering the physic of revolution to the diseased and rotten body politic.

To be sure, the *oppressions* have all been authorised by the law, and long acquiesced in without revolt. But what then? Does that take away the right, still less the advisableness of revolting, provided, as our jurist holds, the plan is not "*ill-concerted,*" and we can get reformers enough to warrant success?

I am afraid, however, that the praise of originality in this doctrine of insurrection does not belong to Sir James. The patriot Hampden (he of 1688) treats them as if of every day's allowance. When examined before the House of Lords, as to his plea of guilty, in his share of the Rye-House plot, he boldly, and certainly unanswerably, says no man will think he ought to be ashamed of it, *who thinks that Lord Russell was murdered.*—That certainly must be allowed to him who so thinks. But he adds, that the matter (insurrection) was a very common thing, and quite constitutional:—"This was the way," he says, "which *our ancestors always took* when the sovereign authority came to so great a height; as might be made out by many instances. *Custom had made this the law of England; and all civilised and well governed nations about us had used the like way.*"

So far the oracle Hampden, who thus makes insurrection part of our common law, and holds it even to belong to civilisation and good government,—of which, no doubt, all the well-governed states of the world are duly sensible, and take care to put it in practice. I will only add, that this opinion of Mr. Hampden is quoted by a noble statesman of ours—himself a legislator and secretary of state, and therefore, of course, alive to all maxims of good government, at least without any mark of disapprobation or difference of opinion.*

* Life of Lord Russell, by Lord John Russell, vol. ii. p. 166.

Yet, with the greatest possible deference to one who, from his office of home secretary, must know so much better how to govern than we simple folk whom he governs, I would ask, in what state of happiness or security that man would be whose tenants or servants, if they chose to be discontented, were bred up in the notion that they had a right, and were even encouraged by the law, to destroy him, provided they were strong enough?

What would become of confidence, or sense of honour, or gratitude, the best ties of social order? It is but justice, however, to Lord John, to say, that in another place he qualifies these opinions; not, however, as to the principle, but as a matter of prudence.

"I apprehend," says he, "few men will now deny, that resistance to a government may *sometimes* be an act not only justifiable as an enterprise, but imperative as a duty."

I am sure, for one, I will not be of the few who deny this. On the contrary, I should have been glad, had I lived at the time, to have been thought worthy of siding against James.

Lord John goes on, soberly and wisely, I think, to condemn a doctrine of Lord Chatham, that it were better for the people to perish in a glorious contention for their rights, than to purchase a slavish tranquillity, at the expense of one iota of the Constitution. Lord John thinks, that a single franchise may be compensated, and abuses resisted, without taking arms.

So do you and I. "It is only," he goes on to say, "when the channels of redress are choaked up, and in danger of being totally closed, that it is the right of all men to prepare for their defence."*

This, too, is undoubted. But *cui bono*, such general truths, unless accompanied with practical illustrations in order to disclose your real meaning?

These sentences were written by the noble author, in discussing the question of the principle, as well as of the fact of the Rye-House plot, and the share his honourable and popular ancestor was supposed to have had in it. Well; is he prepared to say, that because the general principle, so generally laid down, is undeniable, that Lord Russell was justified in preparing for a *defensive* insurrection, because, not the king, but the House of Lords, (though we will grant him the king if he pleases,) had thrown out the Exclusion Bill?

Were the channels of redress in danger of "being choaked and totally closed," because the undoubted heir of the throne was not set aside for being a Papist; there being no law against it?

Yet this was the main grievance complained of, spite of an enumeration of many others (and serious ones too) made by Lord John.

For, as to some of them (for example, the removal of judges for a particular purpose, and the effects, at least, of the surrender of the charters); these had

* Life of Lord Russell.

not then taken place; the abuse of the nomination of juries by sheriffs had been begun, as we have seen, by the Whig Sheriff Bethell, against the court*, and the press was pretty much where it was.

Even Hallam admits, while also enumerating the encroachments by proclamations, on the rights of parliament, and of the subject, that there were no such general infringements of liberty in the reign of Charles II., as occurred continually before the Long Parliament.†

On the other hand, we are not to forget that the association framed by Shaftesbury against the government, and the plan, by *force of arms*, to continue the Oxford parliament, spite of the dissolution, were already contemplated, if not organised, long before any of the enumerated grievances of Lord John had been felt.

But strange to say, Lord John plainly and forcibly answers himself in the following passages:—"It is sufficient to justify the leaders of an insurrection, that the people should be thoroughly weary of suffering, and disposed to view with complacency a change of rule. Were they so in 1683? It *appears to me that they were not.*" Then what could justify his ancestor in plotting insurrection? "Acts of oppression," Lord John proceeds to say, "had been exercised chiefly against a party, many of whom had become unpopular; the *general character* of the government

* Severely and justly blamed by Lord John himself.

† Constitutional Hist., vol. iii. p. 130, 137.

was *not tyrannical; the religion and the property of the subject had not yet been attacked.* Lord Russell seems himself to have entertained *little hopes* of rousing the people at this period; and it is probable that, after some consultation with his friends, he would either have persuaded them to remain quiet, or have withdrawn altogether from their councils."

If so, I repeat the question, Why did Lord Russell consult about a rising, and wherefore does Lord John make the enumeration of grievances that are supposed to justify him? Would the refusal of the Exclusion, would *any* refusal of any bill by the king, or House of Lords, (that refusal being in the exercise of their constitutional rights,) justify the insurrection proposed?

If not, where was the necessity, or even the policy, of introducing this abstract question as a defence of Lord Russell?

Mackintosh, however, proceeds infinitely farther.

As James invaded liberty, he observes, the right of a defensive war was clear.

"It is needless, therefore, to *moot* the question, whether arms may be as justly wielded to *obtain*, as to *defend* liberty."

Can the question then *be mooted?*

This is most important, since it implies that, in the mind of our luminous instructor, if the legal constitution of a state be not sufficiently consistent with liberty, (*of which difficult matter every one is to judge for himself,*) it may be at least *mooted*, whether the

subject, without farther cause of complaint, and without any illegal attempt on the part of the sovereign, may not take arms to *obtain* what HE THINKS is wanting to form a better constitution?

Hence therefore, though the governments of Russia, Prussia, and Austria, if despotic, are so *by law*, and are allowed to be well administered, the people, in the midst of peace and happiness, may at any time rise against their sovereigns and destroy them.

If this be not a removal of all landmarks — an undermining of all security in a community, I don't know what is.

According to this, the most wise, virtuous, and patriarchal sovereign upon earth is not safe from a *lawful* revolt: for if the law give him more power than it pleaseth any of his subjects to submit to, and *they think* they can make the Constitution better, it is only a *moot* point whether they may not rise in arms against him. If that were so, I fear the mooting would not last long. We know the nature of a pampered prosperity to produce discontent; and, for one, I was always struck with the forcible expressions of old Walton on the usurpations of the Long Parliament:—"This nation," says he, "being then happy and at peace, but inwardly sick of being well."* At any rate, what then are loyalty and submission to the laws? Both mere sound, banished from the Ethical code by this the Rebel's book; for so I think I may now call it.

* Life of Saunderson.

But it is said, and is allowed, that the law by which this resistance is authorised, is not, and cannot be, the law of any written constitution; for that would be a contradiction. It is one paramount to all enactments of man, namely, the moral law, or law of nature, written in our hearts.

Be it so; but all law, whether positive, or moral, must have an *obligation* to force obedience to its enactments; and what is the obligation of natural law?

A great, diversified, and much agitated question, ending, I think, (or ending in nothing,) in *religious* obligation, which thus becomes the same with moral obligation.

An excellent answer; for, no doubt, such an obligation must bind all mankind, except those who have no sense of religion.

But here, as every man that pleases, and when he pleases, may rise in insurrection, amenable to no tribunal but his own interpretation of the moral law, all definiteness in moral (that is, religious) obligation is set aside, and we are reduced to the commonwealth of atheists, or of Hobbes, and all civil security depends upon the fear of the axe and the gallows.

Am I doing Sir James injustice, in tracing this consequence from a doctrine, that it is only a *moot* question whether arms may not be wielded to obtain, as well as defend, liberty?

That there may be no doubt as to his meaning of the word "*mooting*," I beg to call your attention to

the following explanatory passages:— "It may be observed, that the rulers who obstinately persist in *withholding* from their subjects *securities* for good government, *obviously necessary* for the permanence of that blessing, generally desired by *competently informed* men, and capable of being introduced without danger to public tranquillity, appear thereby to place themselves in a state of hostility against the nation whom they govern.

"Wantonly to *prolong* a state of insecurity seems to be as much an act of aggression as to *plunge* a nation into that state.

"When a people discover their danger, they have a moral claim on their governors for security against it. *As soon as a distemper is discovered to be dangerous*, and a *safe and effectual remedy* has been found, those who withhold the remedy are as much morally answerable for the deaths that may ensue, as if they had administered poison.

"But though a REFORMATORY REVOLT may in these circumstances become *perfectly just*, it has not the same likelihood of a prosperous issue, with those insurrections which are more strictly and directly defensive."

Here, then, the mask is thrown off, and, under the mild and innocent phrase of a *reformatory revolt*, we may take arms against our governors whenever we please; not because they do not, but because they *do* govern according to law. They may be the wisest and best of princes—Trajans, Antoninuses, Alfreds,

or Henri Quatres; but we may kill, burn, and destroy them if they administer laws which, in our opinion, might be made better.

This is what I understand by the ingenious term *reformatory revolt.*

What is specifically meant by many parts of the language in which this doctrine is conveyed, I confess I cannot tell.

I can only guess, from some of the expressions, something very terrible and threatening from the governed to the governors.

The ambiguities and obscure shadows contained in the didactic parts, I in vain endeavour to make out; but when we come to acts of "*aggression*" on the parts of rulers, though none are substantively specified; and when a "*reformatory revolt*" is talked of, metaphysics are at an end, and there is something which we *could* grapple with if we knew how they came into the array where we find them.

What can we understand of *rulers obstinately withholding from their subjects securities for good government*?

What is the good government meant? What are the securities? What the *safe* and *effectual remedies?*

On these there may be ten thousand opinions.

They may mean a periodical national assembly, periodically cancelling the government, in order to make a new one: they may mean a periodical, or perpetual dictator; a mixed monarchy, an elective king; any thing that any body pleases.

I know not what exactly is in the writer's mind by the vague and indefinite term *security*, applied practically to a people, still less what is meant by the *competently informed men*, who are to decide.

In the wording of the sentence, too, it is doubtful whether it is good government, or security for it, which these *competently* informed gentlemen are said so generally to desire.

All these branches of the proposition which is *attempted* (for it is by no means perfect) must be distinctly understood, before we can reach even the idea of what is the aggression predicated, and what is aimed at by the *reformatory revolt*.

Rhetoricians are seldom logicians, though our friend had the reputation of both.

It must be owned that here, where, on account of the muttering thunder from behind this cloud, perspicuity was most wanted, he has most failed.

The generality of the phrase of *competently informed men*, though these are the men who are to judge of no less than what may be a lawful cause of civil war, is still more markedly fallacious, and is of a piece with all that vagueness and indeterminate phraseology, in which, throughout, Sir James does not hesitate to hazard the most dangerous propositions.

He, himself, is a storehouse of information; and what may appear to be competent information to me, may seem ignorance to him. What I may think ignorance, another may be content with. What he may think information, I may think madness.

Must we not therefore reject his proposition, for want of more light, where he lays down in such unintelligible generality, though it may lead to domestic horrors, *that if securities for good government desired by competently informed men are refused,* revolt and civil war may lawfully follow?

Let us try this competency by its effects.

I have heard that Mr. Owen is not only competently, but well informed.

Will Sir James elect him as a judge of good government, or the securities for it; and allow him to tell us when we are to rise to claim it? Will Mr. Bentham do? or will Mr. Muirson satisfy him?

Who is Mr. Muirson? —

A gentleman who has evidently, and deeply, studied the subject, as well as Sir James; and evinces quite as much zeal upon it, though inferior to him, probably, upon all others. Witness a pamphlet which he wrote, and read at a meeting, sometime since at the Crown and Anchor, of the working classes, on *Spanish affairs;* which, of course, they must have profoundly understood. That they were at least *competently* informed upon it, appears from their discovering that in Spain there was no House of Peers; and *therefore* "it would be a national blessing if our House was swept away, with all its appendant rubbish."

Mr. Muirson, however, was more particular. He read from his pamphlet (sold at the door for one penny) the following "Outline of a new constitution, such as should be submitted to the British nation,

assembled as a people upon the principles of association, and in social union, to form and enact a social compact."

"It is decreed, by order of the people, *in social union assembled* —

"That all kingly authority, all hereditary titles, privileges, and all laws of primogeniture and entail, be for ever abolished.

"That there be no state religion.

"A national legislative assembly, to be elected by ballot and universal suffrage. Ireland, as well as the colonies, shall *constitute* and legislate for themselves.

"All the Crown lands, Church lands, waste lands, and whatever else at this time be *constituted* national property, shall be immediately taken possession of in the name of the nation.

"The people shall be armed, so that they shall be at all times prepared to resist oppression and assert their rights.

"Every soldier, who has *co-operated in social union with the people in order to re-conquer and obtain their natural and just rights*, to have sixteen acres of the best land, rent free for life.*

"England looks up for, and wants a leader of courage, capacity, and action, around whose patriotic genius all men whose bosoms glow with the sacred love of liberty, will unite their efforts to *rescue* their

* Is this one of Sir James's securities?

suffering countrymen from the *yoke of bondage, which has so long, and so cruelly oppressed,* and which still so shamefully degrades it."

Such was Mr. Muirson's address; and surely he must be one of the *competently informed,* particularly on questions of constitutional law; for the report said, he was vociferously applauded by an audience, who said that, with the assistance of the *member for Kilkenny,* they had no fear of being able to *reconstruct* the British Constitution.*

I fear you will think I am trifling with your patience, in intruding this apparent burlesque upon you. Believe me, I never was more serious; nor do I think it would be possible to produce a more sound, or practical comment upon almost all the constitutional doctrines in Sir James's book, particularly the last I have reviewed.

Wild, exaggerated, treasonable as the proposals are, ridiculous as may seem the power, or the knowledge of such an assembly, there is no one feature of the transactions, nor one principle or assertion of the address, which is not in unison with, and founded upon the whole doctrine of resistance, in all its ramifications, and emphatically on his last-mentioned theories of a reformatory revolt, contained in Sir James's work.

* See *The Times,* August 14. 1836.—*The Sun* subjoins, that the audience, though composed of the working classes, handled the subject so well, as to leave no regret for the absence of parliamentary orators.

It is true, with us, no aggression is, or can be pointed out. The king is no tyrant. His is a reign of law, of kindness, of moderation and good will; and his measures have been the reverse of oppressive. But what of that? — According to the advocate for resistance, a mere desire in subjects to obtain more liberty than they have, and without any attack upon *what* they have, will justify their taking arms, *provided there is a chance of success;* which these gentlemen of the Crown and Anchor say they have.

We see they already cry out that they are in a bondage, which has long and cruelly oppressed them. Well; have they not, according to Sir James, a right to a *reformatory revolt?* Have they not a right to think as well as others? The Sun newspaper says, they think as well as the reformed Parliament. Are they not, then, "men, competently informed?" and may they not decide therefore on what are the *best securities* for the *good government* they demand?

Could I have supposed Mr. Muirson meant to have laughed Sir James's proposition out of countenance, I should have thought he would have framed the exact proposal for an amended constitution, and called this meeting expressly for the purpose.

All falls in with the many other proofs, in the book I am presenting to you, of how dark, how ambiguous, and therefore how dangerous to be followed on questions of political law, it is possible for a mind to be; luminous, beautiful, and eminently cultivated in all other respects.

But here I am aware of the saving clause in Sir James's theory, of which it would be injustice to him not to take notice. The securities to be demanded must be "capable of being introduced *without danger to public tranquillity.*"

Here, again, is the sad error of legislating "in generalities," if the object is to legalise a given practical case.

Amidst the thousand different feelings and opinions which agitate mankind on political measures, the party spirit, the blind prejudices, the personal interests that ever prevail, (particularly in a mixed government,) who is to say what will or will not be "dangerous to public tranquillity?" Besides, if refused by the ruling powers, (say, in England, the King, Lords, and Commons,) that instant, according to Sir James, "they place themselves in a state of hostility to the nation. Wantonly to *prolong* a state of insecurity, seems to be as much *an aggression* as to plunge a nation into that state." We know pretty clearly now, what are to be the consequences of this aggression.

Is this then the wisdom that Sir James would teach us — that we are to live in constant apprehension of tumult and revolt, our security from which may be destroyed whenever any fool, any visionary, or any wicked person chooses to propose what HE thinks may be granted by the legislature *without endangering public tranquillity*, but upon which, unfortunately, the legislature may hold a different opinion? In short,

that it is never duty and allegiance, but mere prudence, that is to preserve our safety in society?

With submission, this saving clause, that the security (that is, the *alteration*) in question, is to be introduced without danger to tranquillity, yet give a right of insurrection if not granted, is a contradictory proposition. The mere demand of the security, (however tranquilly it might be introduced if adopted immediately,) if refused, breaks the tranquillity. What should we say to a robber who demands a man's purse, with this persuasive speech,—"You can give it, if you please, without the least breach of tranquillity; but if you do not, I will blow your brains out!"

Many demands upon the legislature may illustrate the refutation of this wild doctrine. Take one. Voting by ballot may, by many, be deemed a security for good government. It certainly might be introduced without danger to public security. But it is refused; and thereby *an aggression* is committed.

The legislature "has placed itself in a state of hostility to the nation;" and those who think the ballot a security for liberty, have an instant right of insurrection.

Will this hold for a moment?

These are mere sophistries that cannot be admitted in a code of law.

But how then, it may be asked, do you resist a robber?

By sheer force, upon the sudden emergency; the

right to which you have, (as I said,) by the law of self-defence, which is the law of nature. But before I do this, I do not attempt to reason about his having broken a compact with society when he entered it, or about my having retained a power to take the law into my own hands when he did so.

You allow then, an antagonist may say, that you would repress grievances by the sword, if there were no other mode. Say rather, repel an attack; which I certainly would do, provided there were no other remedy.

But I would do it on the principle I have alluded to, of self-defence, *when the case arises;* of which I must judge at the risk of my neck: for if I am wrong, or if I do not succeed, I shall certainly be either shot by the robber or hanged by the law. I would, therefore, not busy myself with a metaphysical right, or provide for cases of necessity which have not arisen.

Should a king then attack your person, or house, with no warrant of law ——— ! I would shoot him, as well as the robber, if I could not defend myself without it; but not in virtue of my dormant sovereignty, revived for the occasion.

How infinitely more rational, upon this subject, is the clear and cool-judging Blackstone! He is as fully aware of the difficulty of treating a case of necessity as Sir James; but he extricates himself from it with prudence, because he seeks not to generalise, or legislate universally for cares that cannot be foreseen, and

can only be met by temporary measures. He felt and practised Sir James's own maxim, — which Sir James himself did not. He did not attempt to "look for regularity in a sudden and unprecedented crisis, where all was irregular.*" He is as free as our jurist in applying remedies where wanted, *pro re natâ;* but he does not, on that account, endeavour to render (to use a forcible illustration of Burke,) "the medicine of the commonwealth its daily bread."

Locke, in his warm zeal for liberty and just hostility to the divine right of kings, fell into an extreme on the opposite side, which republicans are fond of quoting. "There remains," says he, "still inherent in the people a supreme power to *remove* or *alter* the legislative, when they find the legislative act contrary to the *trust* reposed in them; for when such a trust is abused, it is thereby forfeited and devolves to those who gave it."†

Here we are evidently again at sea. For, again, supposing a fact which does not exist, that the people in form assembled to frame a government, and, in the first instance, resolved *unanimously* (I should say women as well as men, and certainly many of those called infants in the eye of the law‡) to abide by the determination of a majority, still the question recurs, What is trust? what the abuse of it? and,

* Mackintosh, vol. ii. p. 282.

† On Government, p. 2. s. 149. 227.

‡ If a boy of seventeen may be and act as an executor, or be a father, why may he not vote in the formation of a government?

above all, who is to judge? If every man, it is evident you can have reliance on no man.

The name of Locke is such a host to whatever side he takes, that it is not easy to grapple with it; but here his position is so obviously weak, that nothing but a theorist's enthusiasm for his theory could have induced him to hazard it. As a theorem in abstract philosophy, to be worked out, if it can, by thought and reflection,—as a question to exercise the mind in the closet, like other abstruse questions in science, (the philosopher's stone for instance,) to a cool, not a hot brain, there may be no danger in treating it. As a practical position, ever to be laid down fundamentally to guide the interpretation of laws, and be *pleadable* in a defence for an *unsuccessful* revolt, it can but entrap the judgment; and, if the revolt is successful, it is unnecessary. It therefore resolves itself into feeling, or the right of the strongest, — which surely can have no place in a treatise on law.

Well then has Blackstone observed upon it: — "However just this conclusion may be in theory, we cannot practically adopt it, nor take any legal steps for carrying it into execution, *under any dispensation of government at present actually existing.* For this devolution of power to the people at large, includes in it a dissolution of the whole form of government by that people*; reduces all the members

* Which form never was so established.

to their original equality*; and, by annihilating the sovereign power, repeals all positive laws whatsoever before enacted. No human laws will therefore suppose a case which at once must destroy all law, and compel men to build afresh upon a new foundation; nor will they make provision for so desperate an event as must render all legal provisions ineffectual."†

This is excellent sense, and if their theories are proclaimed, with a view to practical consequences, blows the theorists to atoms whoever they may be.

There is one thing, however, in these passages of Blackstone, which I do not understand; the meaning of the words "under any dispensation of government *at present* actually *existing*." Did it ever exist? Can it exist?

Those who may agree with me will say, No.

For though a code of laws may foresee and describe a case wherein a *king* may be deposed, (as where he breaks any given law,) that king, whatever his title, cannot be a sovereign. If he can be a legal delinquent, he must have a legal judge, and that judge is sovereign over him.

This was exemplified in the Ephori of Sparta; and if we suppose the code to describe the functionary who is thus triable as the real sovereign of the state, who therefore can have no superior, the assertion is a solecism, for he has one.

* Which original equality never existed.

† Comment, vol. i. p. 61.

A sophism of this kind appears in the work of the sophist Paine, I think in his Rights of Man.

He there held this (not even specious) contradiction, laying it down that the sovereignty might by law be subject to the people; and his exemplification was the constitution of one of the American states, in which there was a sovereignty with all legislative and executive powers, but reviewable at the end of fifteen years, by an assembly of the people who might take it away.

Who did not see that the word sovereignty was here inaccurate? for that there were here two governing powers, one paramount, one subordinate: one, the Assembly, the real sovereign; the other, its deputy for a definite period.

It is five and forty years since I read this blunder, probably a wilful one of a man who was supposed to have the power of enlightening us. It glared upon me, though then a young man, and I never forgot it.

Can I, or ought I to quit this division of the subject, without investigating the far-famed question of the Sovereignty of the People itself, founded upon rights supposed by many, besides Mackintosh, to be clear, admitted, *inalienable*, and *resumable*, because paramount to all other authority, even though derived from themselves?*

* How can any possession over which a man has the absolute control, in his own right, be inalienable? If it is, he has not that control. Liberty is a possession of this kind. A man who has it, is lord of himself; and being so, what is to prevent him from disposing of himself

To this therefore I hasten, and will close (not I fear before you have wished,) what it has occurred to me to remark, upon this first of the four sections into which I proposed dividing my observations upon Sir James's work.

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for a valuable consideration, or no consideration at all: Jacob served Laban seven years for each of his two wives (Leah's a dear purchase.) The ancient Germans, according to Tacitus, were so fond of gaming, that they sometimes staked themselves, that is, their liberty upon the hazard of chance. If liberty is inalienable, how could this have been? Suppose an unfortunate but metaphysical gamester, had refused paying the stakes, and resumed his power over himself on this plea, would not his new master have accused him of having cheated at play?

SECTION II.

OF THE SOVEREIGNTY OF THE PEOPLE, AND THE SOCIAL COMPACT.

SINCE the Revolution, and the celebrated debates upon these questions, ending in the celebrated finding of both Houses of Parliament, that there was such a compact, and that James had broken it, all Englishmen, at least all good Whigs would be scandalised to hear it questioned. I ought therefore to fear and tremble, when I confess that in this doctrine, I never could see any thing more than a supposititious case, which never really happened, but was created merely for the better educing and illustrating the duties of governments.

Abstract principles are generally more difficult to demonstrate, particularly by arguments *a priori*, or even by analogy, than to gather them by a plain deduction from a tangible case.

The theories therefore of the political philosophers, as to the reciprocal duties of sovereign and subject, were infinitely more capable of practical demonstration by supposing what might, but what never

did happen, that wild and independent men living in solitary freedom, in woods and caves, left them for the purpose of associating together, and framing a government for their better security. Not only this, but that these savages entered into a compact with those whom they chose for their governors, in which the ramified and mutual duties of obedience and protection, and the exact boundaries of power on one side, and subjection on the other, were all pointed out, with a defeasance, as the lawyers term it, should the conditions be not observed. This, I say, was a far more convenient way of elucidating the theory and science of government, than mere speculative truths without such an example to illustrate them.

As such a convenient mode of elucidation, I am willing to adopt it. As a case that ever happened, and as the actual origin of government, I never could bring my mind to admit it. The utmost that can be said for it is, that it may be implied from the reason and nature of things, and, had the Convention Parliament voted that it was so implied, perhaps it would not have been so objectionable; though about reason and the nature of things how many are the differences of opinion, I need not to your experienced mind point out.

To be sure, the Convention voted it: but will that make it binding upon our belief?

Suppose they had voted that there was no God: would that have demonstrated such a proposition?

In reference to the opinion quoted from Locke, I have asked what is meant by a trust?

Surely it is not meant to be that technical instrument in law which appoints, by a known formulary, one person to hold a benefit for the use of another?

But, even if Locke meant it so, could he who appointed the trust resume it himself, let it be ever so much abused?

The reason is, because no man can be a judge in his own case. The law, therefore, in cases of abuse, appoints other parties to take cognisance of, and decide the question. But the word had not this literal technical meaning, even with Locke.

It is evidently a metaphysical supposition, the better to illustrate a particular doctrine in morals, as well as in politics.

Under this, as a legal deed of trust *enacts* certain duties to be performed, in failure of which, the power may be resumed under a decree by competent and known authority; so, for the better exposition of the reciprocal duties of governors and governed, or of men generally, a case is supposed which never actually happened, and a trust is *impliedly* granted by one party to another, as if both were in a state of civil society, when, in point of fact to have been so, the trust supposed must have already been executed.

For, to pursue this matter:—if we allow what is falsely, I think, presumed, that there ever was a state of man without government, that is, when every man

was his own absolute master, like any other animal; it is clear that in such a state, from the very description of it, no such trust, express or implied, could have existed, for there were neither governors nor governed.

And when a government was at last constituted, as is supposed by common consent, there must have been a previous common consent to abide by such institution; which instantly supposes a society already formed; and there must have been a still earlier trust from every man to every man for that purpose.

This, however, is a state which the most liberal theorist, as to the origin of government, has never ventured to suppose; and is not only not supported, but contradicted by whatever history remains to us of the earliest times.

By this history it is fair to suppose, that the first governments were patriarchal, which by no means implies divine right; — a doctrine long exploded, and reduced to mere speculation, amusing in the reveries of contemplative men, but not admissible by true philosophy.

Yet so, also, seems this supposition of an actual trust, or contract, between people and their sovereign, entered upon by the respective parties: the one executing, the other receiving it upon known conditions.

I do not say that no instance of such a transaction is to be found in history.

Exiles and outlaws have, I think, in one or two instances, been known to have agreed to stand by one another to find a settlement, and have elected a chief; but with these exceptions, there is no proof, that the general origin of states sprang from this asserted trust or contract.

We, therefore, as has been observed, start an *imaginary* transaction, only as a more convenient vehicle to convey more clearly our notions of duty in our different relations one to another.

In this sense, we say we are stewards or trustees of the fortune which God may have given us, for the proper use and distribution of it; and Locke might just as well, and with as much reason, have asserted, that if we abuse the gift by waste or profligacy, the law by which we hold it might take it from us, and devolve it upon some other person more worthy.

Indeed, what is more common than for pious, or merely moral men, to hold by a metaphor, as it were, that the rich are only trustees or stewards for the poor?

For the better expounding the rationale of our duties, this is convenient in a code of morals.

But what right it would give the poor, even had they arms in their hands, to resume their supposed property from these their metaphorical trustees, I will not inquire. Yet if the trusteeship of sovereigns is also only metaphorical, and not an actual fact, I see not why the doctrine might not prevail in one case as well as in the other; especially as in both, the *cestuiqui* trust is

the sole judge (according to the theory,) when the trust is abused, and, therefore, when it may be resumed. Hence, I entirely concur with the observation of Hume, that, though the principle is noble in itself and seems specious, *that the people* are the origin of all just power, it is *belied* by all history and experience *; and I recur again to the support of the candid and liberal Hallam, who allows that the idea of an original contract "seems rather too *theoretical*, yet necessary *at that time*, as denying the divine origin of monarchy, from which its absolute and indefeasible authority had been plausibly derived." † If this be the only reason that made the doctrine necessary, the doctrine itself is evidently not genuine, especially as from our improved knowledge it is necessary no longer.

Upon the whole then, even the great Locke must, I think, in this opinion be pronounced inaccurate; probably from being hurried on by zeal into another extreme, at a time when boldness and extreme principles of liberty were required to meet and confute extreme principles of divine right.

It is certain, that to me the cooler judgment of Blackstone on this question seems not only preferable, but the true one.

Now to examine the nature of this sovereignty of the people a little farther.

* Hist., vol. vii. p. 134.

† Constitutional Hist. vol. iii. p. 349.

It is said that Frederick II. king of Prussia, once contemplating the turbulent character, and at the same time the power and resources of the English, exclaimed, "Gallant nation! why am I not your king with an army of 80,000 men, and a score of executioners in my train! what would I not make of you!"

This bespoke gross tyranny on the part of Frederick, and a pretty correct exhibition of the right of the strongest.

Well! a million of men, with arms in their hands, find themselves subjects to a weak king. But though weak, he is a just king; a lawful king; a king whom, and whose ancestors, they and their ancestors have always obeyed!

But they think, or choose to think, they can be happier without a king; so, as he cannot resist, and the law has not a million of armed men on its side, they dethrone—perhaps, for greater security, kill him. Had they a right to do this, either by law or reason? or, if a right, is it not the right of the strongest, as much as what we have supposed of Frederick II.?

No! says a liberal jurist: for the million (that is, the people,) are sovereigns; the king only their servant, whom they have a right to dismiss when they please.

And what gives them this right? Their numerical force? their swords if they choose to employ them? which the king cannot resist.

No! again says the jurist: for you forget that

each of the million, or his father before him, had an absolute power over himself, of whom he was therefore sovereign; and it is from this only, *by delegation*, that a king, or government can assume dominion over the whole; and the million has only *delegated* this sovereignty to the government upon certain conditions.

Which, if the king keep, it cannot be resumed except by power?

Just so!

Then how are the people sovereigns, who have parted with their sovereignty?

They are not, unless the conditions are broken; when all is as it was, and each man again becomes his own sovereign.

Till that happen then, at least, there is no sovereignty in the people, but what may be derived from their physical force; which if they use, they on their side break their compact as much as a king who sets himself above the law.

Not so; for their sovereignty only *lies dormant*, to revive again, when those from whom, and for whom alone it has been delegated, choose to alter their minds.

That is what I cannot comprehend. For it must either be absolutely and for ever extinguished, or it must be somewhere latent, with some known depositary; and who is to demonstrate that they have altered their minds?

Themselves.

That again seems strange. For I never heard of

a contract binding upon two parties, in which one might be off whenever he pleased.

If not whenever he pleases, at least when the other party breaks the conditions.

That is the same thing, *if the discontented party is to be the sole judge* of the case when the conditions are broken. But you say expressly "whenever he pleases," when you talk of a *reformatory* revolt; which supposes only *discontent* with the conditions, not that they are broken. The whole therefore is a string of contradictions.

For the people are at first sovereigns; then they are not sovereigns, for they have given up the sovereignty; then they are sovereigns again, because the sovereignty they had parted with had always remained in their own keeping, and they only parted with the exercise of it for a time, of which time they were themselves to be the masters. How can this be?

From their sovereignty being inalienable.

But your supposition says it has been alienated, which comes to an absurdity. If resumed, therefore, it cannot be from its having only lain dormant, but from a *new* creation acquired by force, and is therefore what I set out with, the right of the strongest.

In short, argue as long as we will, no servant can be master as well as servant, without a contradiction of terms; and if a servant can sit in judgment on his master, in any supposable case, *of which he himself is the judge*, there is an end of the relation between them.

Granting this, says my opponent, what if the master attempt to cut the servant's throat?

The servant may knock him down; but not in virtue of a reserved right expressed in the contract, still less of any supposed mastery over the master, retained at the hiring.

Yet what is it, again replies my adversary, but the case of two independent nations that go to war? suppose for the breach of a treaty.

Each being sovereign, each decides for itself, for there is no common judge. This is the case between a king and a people.

That again is a fallacy; for, by the supposition, the people are not an independent nation, but owe obedience to their rulers, which neither of your independent states does to the other. The comparison therefore will not hold.

May I not then resist oppression?

Yes, certainly, by the right of self defence; but not by any provision of law, still less by any fanciful notion, by implication from premises that do not exist. Such, as that you have surrendered your sovereignty yet still preserve it, and alienated a right which remains inalienable.

Such I have presumed to suppose would be the argument upon this question between a man of plain sense, and a professor of, what is called, liberal principles. The plain man, you see, is as great a supporter as the other of the natural right of resistance against a case of oppression sufficient to call for

it, *when it happens;* but he does not entangle it, like Mackintosh, by laying down beforehand what causes are to justify this resistanee; still less the outrageous doctrine of a reformatory revolt, or the right to demand securities beyond the existing constitution, at the pleasure of the governed. The plain man, too, lays aside all sophistical notions of the inherent, never dying, inalienable, and unalterable right of sovereignty in the people, which he thinks does not exist; and, which if it did, would, and under bold and visionary or wicked men, does involve us in consequences destructive of all security.

The dangerous effects which may flow from this doctrine are so well drawn out and displayed by, in my opinion, the wisest intellect of his time, that I think I shall do well in reproducing it upon this occasion. It is Burke who will speak.

He is reviewing the position that the majority in a state can never be wrong; and that, therefore, whatever they *will*, whether to erect, alter, or destroy a constitution, and whatever miseries may flow from it, *must* be right.

In discussing this, by way of showing how this majority may be and often, unfortunately, *is* obtained, he describes the steps that may be and often are pursued. The argument for their position is thus stated: —

"The sum total of every people is composed of its units. Every individual must have a right to originate what *afterwards* is to become the act of the

majority. Whatever he may lawfully originate he may lawfully endeavour to accomplish.

"He has a right, therefore, in his own particular, to break the ties and engagements which bind him to the country where he lives; and he has a right to make as many converts to his opinions, and to obtain as many associates in his designs as he can procure; — for how can you know the dispositions of the majority to destroy their government, but by tampering with some part of their body?

"*You must begin by a secret conspiracy, that you may end with a national confederation.*

"The mere pleasure of the beginning must be the sole guide; since the mere pleasure of others must be the sole ultimate sanction, as well as the sole actuating principle in every part of the progress."

So far the reasoning on the right of the people to overturn a constitution. On this Burke observes: —

"Thus *arbitrary* will, the last corruption of power, step by step, poisons the heart of every citizen.

"If the undertaker fails, he has the misfortune of a rebel but not the guilt.

"By such doctrines all love to our country, all pious veneration and attachment to its laws and customs, are obliterated from our minds; and nothing can result from this opinion, when grown into a principle, and animated by discontent, ambition, or enthusiasm but a series of conspiracies and seditions, sometimes ruinous to their authors, always noxious to the state.

No sense of duty can prevent any man from being a leader, or a follower in such enterprises. Nothing restrains the tempter, nothing guards the tempted. Nor is the new state, fabricated by such arts, safer than the old.

"What can prevent the mere will of any person, who hopes to unite the wills of others to his own, from an attempt wholly to overturn it? It wants nothing but a *disposition* to trouble the established order, to *give a title to the enterprise.*"

Again:—

"When you combine this principle of the *right to change* a fixed and tolerable constitution at pleasure, with the theory and practice of the French Assembly, the irregularity is, if possible, aggravated. There is a far more commodious road to the destruction of an old government, and the legitimate formation of a new one.

"*Get the possession of power, by any means you can, into your hands,* and then a *subsequent* consent (what they call an *address of adhesion,*) makes your authority *as much the act of the people, as if they had conferred upon you originally that kind and degree of power which, without their permission, you had seized upon.*

"This is to give a direct sanction to fraud, hypocrisy, perjury, and the breach of the most sacred trusts that can exist between man and man.*

"What can sound with such horrid discordance in

* This was exactly the case of Cromwell and Bonaparte.

the moral ear as this position?—That a delegate, with limited powers, may break his sworn engagements to his constituents, assume an authority never committed to him to alter things at his pleasure; and then, if he can persuade a large number of men to flatter him in the power he has usurped, that he is absolved in his own conscience, and ought to stand acquitted in the eyes of mankind. On this scheme, the maker of the experiment must begin with a determined perjury. That point is certain. He must take his chance for the expiatory addresses. This *is to make the success of villainy the standard of innocence.*

"Without drawing on, therefore, very shocking consequences, neither by previous consent, nor by subsequent ratification of a mere *reckoned* majority, can any set of men attempt to dissolve the state at their pleasure."

This reasoning, so cogent in argument, and so perspicuous in style, seems to me irrefutable. Let us now consider his notions of that mystical phrase "The People," so entitled to our veneration, so extravagantly abused.

"Believing it therefore a question at least arduous in the theory, and in the practice very critical, it would become us to ascertain, as well as we can, what form it is that our incantations are about to call up from darkness and the sleep of ages, when the *supreme authority* of the people is in question. Before we attempt to extend or confine it, we ought to fix in

our minds, with some degree of distinctness, an idea of what it is we mean, when we say THE PEOPLE.

"In a state of rude nature there is no such thing as a people. A number of men *in themselves* have no collective capacity. The idea of a people, is the idea of a corporation. It is wholly *artificial*, and made, like all other legal fictions, *by common agreement*. What the particular nature of that agreement was, is collected from the form into which the particular society has been cast. Any other is not *their* covenant.

"When men therefore *break up* the original compact or agreement, which gives its corporate form and capacity to a state, *they are no longer a people;* they have no longer a corporate existence; they have no longer a legal coactive force to bind within, nor a claim to be recognised abroad. They are a number of vague, loose individuals, and nothing more. With them, all is to begin again. Alas! they little know how many a weary step is to be taken, before they can form themselves into a mass, which has a true politic personality.

"We hear much from men who have not acquired their hardiness of assertion from the profundity of their thinking, about the omnipotence of a majority in such a dissolution of an ancient society as hath taken place in France. But amongst men so disbanded, there can be no such thing as majority or minority, or power in any one person to bind another. The power of acting by a majority, which gentlemen

theorists seem to assume so readily, after they have violated the contract out of which it has arisen, (if at all it existed,) must be grounded on two assumptions: first, that of an incorporation produced by unanimity; and secondly, by an *unanimous* agreement, that the act of a mere majority (say of one) shall pass with them, and with others, as the act of the whole.

"We are so little affected by things habitual, that we consider this idea of the decision of a *majority*, as if it were a law of our original nature: but such a constructive whole, residing in a part only, *is one of the most violent fictions of positive law* that ever has been, or can be made, on the principle of artificial incorporation. Out of civil society, Nature knows nothing of it; nor are men, even when arranged according to civil order, otherwise than by very long training, brought at all to submit to it.

"If men dissolve their ancient incorporation in order to regenerate their community, in that state of things each man has a right, if he pleases, to remain an individual. Any number of individuals who can agree upon it, have an undoubted right to form themselves into a state apart, and wholly independent. If any of these is *forced* into the fellowship of another, this is *conquest*, and not *compact*."

Again: —

"As, in the abstract, it is perfectly clear that, out of a state of civil society, majority and minority are relations which can have no existence; and that in

civil society, its own specific conventions in each corporation determine what it is that constitutes the people, so as to make their act the signification of the general will; it is equally clear that neither in France nor England has the original or any subsequent compact of the state, express or implied, constituted a majority of men, *told by the head*, to be the acting people of their several communities.

"And I see as little of policy or utility, as there is of right, in laying down a principle that a majority of men, *told by the head*, are to be considered as the people, and that, as such, their will is to be law."

Mr. Burke then argues that a people, possessing such powers as are here ascribed to them, can only be those who are divided according to the rules and classifications of society, into which they fall from the nature of things.

"Give once (says he) a certain constitution of things, which produces a variety of conditions and circumstances in a state; and, there is in nature and reason a principle which, for their own benefit postpones, not the interest, but the judgment of those who are *numero plures*, to those who are *virtute et honore majores*."

He then luxuriates in a noble as well as beautiful and philosophical account of a natural aristocracy, which, he says, is NOT a separate interest in the state, nor separable from it. (Nothing more true!)

It is (he observes) an essential integrant part of any large body *rightly* constituted. It is formed out

of a class of legitimate presumptions, which, taken as generalities, must be admitted as actual truths.

"To be bred in a place of estimation; to see nothing low or sordid from one's infancy; to be taught to respect one's self; to be habituated to the censorial inspection of the public eye; to look early to public opinion; to stand upon such elevated ground, as to be enabled to take a large view of the wide-spread and infinitely diversified combinations of men and affairs in a large society; to have leisure to read, reflect, and converse; to be enabled to draw the court and attention of the wise and learned, whenever they are to be found; to be habituated in armies to command and to obey; to be taught to despise danger in the pursuit of honour and of duty; to be led to a guarded regulated conduct, from a sense that you are considered as an instructor of your fellow-citizens in their highest concerns; to be employed as an administrator of law and justice, and to be thereby amongst the first benefactors of mankind; to be a professor of high science, or of liberal and ingenuous art; to be amongst rich traders, who, from their success, are presumed to have sharp and vigorous understandings; these are the circumstances of men, that form what I should call a NATURAL ARISTOCRACY, *without which there is no nation.*

"When great multitudes act together under *this discipline of Nature*, I recognise THE PEOPLE.

"In all things, the voice of this grand chorus of national harmony ought to have a mighty and de-

cisive influence. But when you disturb this harmony; when you break up this beautiful order, this array of truth and nature, as well as of habit and prejudice; *when you separate the common sort of men from their proper chieftains, so as to form them into an adverse army;* I no longer know that venerable object called the PEOPLE, in such a disbanded race of deserters and vagabonds. For a while they may be terrible indeed, as wild beasts are terrible. The mind owes to them no sort of submission. They are, as they have always been reputed, REBELS. They may lawfully be fought with, and brought under, whenever an advantage offers.

"Those who attempt by outrage and violence to deprive men of any advantage which they hold under the laws, and to destroy the natural order of life, proclaim war against them." *

Thus far this admirable man on the point immediately before us. But can I quit him, long as these extracts are, without adding the sportive use he makes, in winding up his argument, of the ludicrous but important account which Walsingham gives of the preaching of Doctor Ball to 20,000 men assembled on Blackheath, by which he says it is plain that the Abbé Ball understood (though so long before him) the rights of men quite as well as the Abbè Gregoire; and, he might have added, as Tom Paine himself.

* Appeal of new Whigs to the old.

The Abbé Ball preached from *this* text, as all our modern reformers do in this day.

> " When Adam dalfe and Eve span,
> Who was then the gentleman? "

Walsingham then details the sermon as follows:—

" Nitebatur per verba proverbii quod pro themate sumpserat, introducere et probare *ab initio omnes pares creatos* a natura —servitutem per injustam oppressionem nequam hominum introductam contra Dei voluntatem. Quia, si Deo placuisset servos creasse, utique in principio mundi constituisset, quis servus quisve dominus futurus fuisset. Considerarant igitur jam tempus a Deo datum eis (in quo deposito servitutis jugo diutius), possent, si vellent, libertate diu concupita gaudere. Quapropter monuit ut essent vivi cordati, et amore boni patris familias excolentis agrum suum, et extirpantis ac resecantis noxia gramina quæ fruges solent opprimere, et isti in præsenti facere festinarent, primo *majores regni dominos occidendo; deinde juridicos, justiciarios et juratores* patriæ perimendo; postremo quoscunque scirent in posterum communitati nocivos tollerant de terra sua: sic demum et pacem sibimet parerent et securitatem in futurum, si sublatis majoribus esset inter eos, æqua libertas, eadem nobilitas, par dignitas, similisque potestas."

Here was reform with a vengeance; and so very like the modern reforms, acted upon in France, and proposed at many of our meetings here (not quite so numerous indeed, but equally patriotic), that being

preached near 500 years ago, it must deprive our reforming sages of all pretension to originality.

The similarity also holds in the effects; for the majesty and sovereignty of the people on Blackheath being thus moved, they all by acclamation declared that the reformer Ball should be Archbishop and Lord Chancellor; a consummation which no doubt would be very agreeable to some of our present demagogues. In sober seriousness, I see no reason why their 200,000 majesties on Blackheath, and the Apostle of Liberty and Equality, Ball, had not as much a right to call themselves the PEOPLE, and as such, by virtue of their sovereignty, to command the deaths of all the then holders of property and power, and change the monarchy into a republic, as any of the self-elected apostles of liberty and enlightened philosophy now in England.

And with this we close these great theoretical questions, in order to hasten to the practical, and perhaps more important one, that still remains, and which, though last in order, has been in fact the foundation of the other two. I mean the real amount of the precedent of 1688, and the doctrines that have been derived from it, together with the real character of its managers, stript of all extraneous glosses, with which partiality, love of theory, blind admiration, or blind condemnation have surrounded them.

SECTION III.

REVOLUTION OF 1688.

UNDER this great settlement of our Constitution, this nation has enjoyed, and may still enjoy (unless destroyed by some suicidal act of its own), more, I think, of rational liberty, and better secured, than any other nation since time began.

But it was not obtained except at the expense of political controversies which have lasted from that time to this; a cheap purchase, if it end not, through the madness of the controversialists, in the destruction (though upon other and more extreme principles) of what the Revolution had sought to secure.

Two parties, as you well know, have been embattled against one another ever since this great event; each of them extolling, each approving, but at the same time drawing from it very different conclusions.

The one raising upon it all those doctrines, and more, which we have been reviewing, respecting the general right of resistance, the inalienable sovereignty

of the people, and their rights beyond the law, over their monarchs; the other contenting themselves with looking upon it as a case of necessity, which was met with the greater wisdom, because, as they contend, no new or untenable principles in the science of government were engendered, no dangerous usurpations of force over law accomplished; so that, while our liberties were enforced, the harmony and security of society were not disturbed.

Those who contend for the first, assert that it is *proved* that we have a right "to *revoke* abused power, cashier our governors for misconduct, elect others in their room to *frame a government* for ourselves, *and bestow the crown*" as we please.

So said Mackintosh in his "Vindiciæ Gallicæ;" so said Price in his famous sermon.

The opinions of Locke we have already noticed.

These tenets were all warmly *op*posed, and eloquently *ex*posed, by a number of statesmen and constitutional lawyers, (Mr Burke their leader and powerful chief,) who saw the danger of so destroying all the foundations which support civil society, as these principles, if carried as far as they would lead, would inevitably do. Burke therefore met the whole question in all its modifications, in perhaps the most celebrated of his works, the "Reflections on the French Revolution," and afterwards in several others supplementary to it.

Let us examine these propositions, and see how they are borne out by the history; we shall then be

able to tell, stript of their colours of rhetoric, to what they really amount.

The doctrine of Locke upon the devolution of the sovereignty to the people, when the trust, supposed, in legal form, to have been committed to their governors, has been abused, and upon the consequent right which he says they have to *remove* and *alter* the legislature — as if all society were to begin again — this has been so satisfactorily answered by Blackstone*, that I shall not revert to it again in this letter, though I may consider his whole philosophy on the subject, more at large, in a question by itself.† But the amplification of this tenet by Sir James requires more attention.

"The Revolution of 1688," he observes, "*is confessed* to have *established principles*, by those who lament that it has not reformed institutions."‡

Where is this confessed? what principles has it established, not known before? what are the institutions which he wished it had reformed?§ I profess I do not know.

To resist *oppression*, which means something contrary to duty and moral obligation in the oppressor, and destructive to rights in the oppressed, is a law of our nature, and requires no precedent to give

* Comment. i. 161. † Vide Appendix, No. V.

‡ Vind. Gall.

§ Did he mean the kingly government, or the House of Lords, or to give universal suffrage?

us power to act upon it. This, then, was established at the birth of man, and surely did not take its origin from the revolution.*

What else did it establish *by way of precedent?*

Mackintosh answers, the right of the people to *revoke* abused power.

This is a very general sweeping proposition, which ought to be far more distinctly explained before we can even understand, much more assent to it. If it mean a right to resist an invasion of our legal security, it is not only admitted, but, as has been observed, asserted by the law of nature, not merely of the Revolution; but if it mean to resume a power actually ever enjoyed and actually delegated to another, we dispute the fact.

Power, to be *revoked,* must have been enjoyed; and the people of England never did enjoy this power, or delegate it in form to another. It is a fancy embodied in argument, and, as we have before observed, by implication, for the better illustration of the science of government; an imaginary case, which, as a fact, never existed.

The word revoke, therefore, is improper, and the doctrine founded upon it, *as derived from the Revolution,* still more so. The people of England neither *revoked,* nor *resumed,* their political power: they *used* their right of self-defence when attacked, given by nature to all human and all other kind.

* For the eloquent proof of this, see Mackintosh himself, in the Vind. Gall.

But the consequence of this revocation in the jurist's mind is still more indefensible.

The precedent, says he, gave them a right to "frame the government, and bestow the crown;" in this, defending the assertion of Price, that it had established a right "to choose our own governors, to cashier them for their misconduct, and frame a government for ourselves;" adding, that the House of Hanover owes the crown to the choice of the people, that is, that the people might with equal right have chosen any other family, or even Jeffries or Kirk, to be their king.

These memorable positions are what drew forth the as memorable answers of Burke; and it would be gross affectation of incredulity to say that these doctrines have not been held by many reasonable and well-disposed persons since the Revolution, if they were not first started and established by that event.

But are they true? That is the question.

That the House of Hanover owes the crown to the Act of Settlement, made by King, Lords, and Commons, and that it would be a poor subterfuge to deny that what that act did, was, *in part*, done by the representatives of the people, I will not be the person to hold; but to say that it was given by *election* — such election as the theories which have been combated suppose, namely, a meeting of all the people, returned to a state of nature, every individual his own sovereign, and about to delegate that sovereignty to a particular man or family upon certain conditions, or even an election by their representatives, so free from

all duty or guiding principle, that their choice could have been uncertain or indifferent, — this I take leave to deny.

For was it more than what the parliament had often done before to meet unexpected emergencies, in regard to the throne, when either really or virtually vacant, or the succession altered by a contingency, natural or forced? Did the House of Hanover succeed by election more than Henry IV., when it was simply voted that "the inheritance of the crown and realms of England and France, in all other the king's dominions, *shall be set and remain* in the person of our sovereign lord the king, and in the heirs of his body issuing" — remainder to Prince Henry and his heirs, then to Lord Thomas, Lord John, and Lord Humphrey, his brothers, and their issue?

Now, as Henry IV. had no legal title of himself, any more than King William or George I., and the lawful heirs of the family of Marche were here set aside, so William and George, though, like Henry, they were in the succession, not being *immediate* heirs, that succession was altered in their favour, to the exclusion of those who were, namely, Anne and the House of Savoy. Yet will any man alive, or did any one who ever lived, suppose, much less promulge, that Henry IV. came in by election of the people, or that the people might, if they had pleased, and had not been controlled by him on that occasion, have placed any one of themselves (a Percy, for instance) on the throne? Such is the opinion of Mackintosh, who asserts, that, at the Revolution, the principle that

justified the elevation of William, and the preference of the House of Hanover, would have vindicated the election of Jeffries or Kirk.*

The respect we owe to Sir James alone makes us patient in refuting this most mistaken position.

The principle was the same on which, in various periods of our history, the parliament regulated, that is, *altered, the course of succession*, as to individuals of the same royal family, but never supposed, or held (or any one for them), that in that they could, or did, set the reigning family aside, and elect a new one, or abolish monarchy altogether.

To you, I need not dwell upon these alterations; but those who follow these strange tenets of Sir James and his wild associates in doctrine, would do well to consider how many of them there have been. How they were produced is not the question: the simple point is to show that parliament has often so interfered, without the most remote notion in the Mackintoshes or Prices of those days, that the power of altering the succession as to the individual, proceeded upon the *right* to elect a new family, or a new government altogether.

In Henry VII.'s case, he certainly had no right to be considered even in the line of succession; because, though he descended from the House of Lancaster, it was through a stock that was illegitimate. But the claim of the descent, and the assertion of it, were al-

* Vind. Gall.

lowed by the world, from the detestation born to Richard. Henry was treated and estimated as the true representative of John of Gaunt, and, as such, was able to procure that power and following which overturned the tyrant. *No other man in the nation* was looked to, or could have done it. He suffered himself to be crowned by his army* on the field; and the parliament voted, as they did in the case of Henry IV., "*that the inheritance of the crown should rest, remain, and abide in him and the heirs of his body;*" but will Sir James for a moment pretend that all this was upon the principle of a free legalised election by the people, who might, *by the law*, have elected Lord Stanley, or any other chief they had pleased, instead of him?

In the reign of his son, the king and parliament were most busy with the succession. They set aside his daughter Mary in favour of Elizabeth; they set aside Elizabeth in favour of the issue by Jane Seymour; they then restored both Mary and Elizabeth; and they even vested in the king, on failure of children, the power of naming his successor. In strictness, therefore, had the conjuncture arisen, he might have exercised it to the exclusion of the Scottish princes, who were the undoubted natural heirs.

But would even this have amounted to the claim

* It is said that Sir William Stanley, after the battle of Bosworth, having found a crown which Richard used to wear, placed it upon his head, and saluted him king.

contended for in the people to dispose of the throne absolutely as they pleased, or to set aside the reigning dynasty? Certainly not; if only because *the king himself was a party to all these alterations*, which plainly deprives the people of any *exclusive* pretension to such a right.

This also applies to the preference of the House of Hanover itself; for the warmest sticklers for an election by the people cannot and do not pretend that the same power that chose King William, placed King George in the remainder. The convention did the first, but the second was effected by an act of parliament.

And this is a complete answer to what, with submission, is a fallacy of a noble author and secretary of state—Lord John Russell. "The hereditary succession of the crown," says this statesman, "was in their eyes (the Whigs) a rule for the benefit of the people, and not a dispensation of Providence for the advantage of a single family. If at any time, therefore, the observance of the rule became dangerous to the welfare of the community *, the *legislature* was, in their opinion, competent to consider whether that danger was greater than the inconvenience of deviating from the established course."†

Were this all, who would doubt it, who profess that the *legislature* could not remedy all evils or in-

* Who is to decide that question?

† Life of Lord Russell, i. 186.

conveniences? But if it is meant that by this word Legislature, the *people resumed* their supposed and asserted inalienable sovereignty, the consequence does not flow from the premises. For the *Legislature*, though compounded of the people, are not the people alone, as the term is here meant; it is compounded of king and hereditary senators, as well as people: these, together, are omnipotent; asunder, nothing. If, therefore, Lord John, by Legislature, means the people alone, it is not the fact.

Fortified by this junction with the king, the legislature becomes, indeed, what the lawyers hold it to be, omnipotent; and as they once so altered the constitution, as to give the proclamations of Henry VIII. the power of laws, so, I apprehend, we must admit that, in *concurrence with the king*, they might overturn the monarchy and *enact* a republic. But neither would this give the people *alone* any such right, still less that of deposing, or excluding at pleasure, the whole of the reigning family.

The naming the power of exclusion brings us to the famous question as to James, when Duke of York.

If any thing could countenance the supposed right to cashier our kings for misconduct, and choose others, it would be this attempt to cashier the next heir to the crown. Had it been carried, the supporters of Price and Mackintosh might have perhaps resolved it into a precedent of this unconstitutional pretension.*

* Unconstitutional, if attempted by any thing short of the whole legislative power.

Yet, not to mention again *that the king must have been a party to this*, what would it have amounted to more than those other instances of a regulation of the succession in members of the same family? not to any precedent of a power in the people to create a new government, or *elect* a new governor.

The contest about the exclusion was, as you know, conducted with more heat and violence by the Commons, than any question of our history. The question as to James as king, was tranquil in comparison with that regarding him as heir; yet no one talked of the inherent power of the people to cashier governors and elect new ones. Sir James, indeed, asks rather triumphantly, whether Price was not right as to a succession by *choice* in the Hanoverian family? "Dr. Price," says he, "had asserted (I presume, *without fear of contradiction*) that the House of Hanover owes the crown of England to the *choice of the people*." *

I venture to say not; at least, not in the full sense that both Price and Mackintosh assert it, as arising from the supposed *new* principles established at the Revolution. Both of them forget that an act of parliament had regularly passed by *King, Lords*, and Commons, and not by the sole voice of the people, (I mean the Bill of Rights,) by which all Roman Catholics were disabled from succeeding to the throne. This at once incapacitated the whole House of Savoy, and brought forward the *next* protestant heir, who

* Vind. Gall.

by law might have asserted his claim; and this heir, as we all know, was George the First. But even had no disabilities been enacted, it cannot too often be noticed, that the necessary concurrence of the *Sovereign* in the Act of Settlement, at once destroys all notion of an *Election* by the people, whether by themselves individually, or through their representatives collectively.

Can any thing, therefore, be more wild, more untrue, or more unsupported, than this triumphant question of Sir James?

Both of these jurists (if Price had any pretension to be a jurist) might quite as well have supported the impudent and infamous falsehood of the murderers of Charles, who told him he was an elective prince, elected by his people, and accountable to them for his conduct; — upon which principle they cut off his head. Neither of these authors, indeed, *expressly* held this, and Sir James, at least, would probably have hesitated in doing so; but I profess I can see no difference between these assertions of the regicides, and the principles laid down in the works I am canvassing. It is true, the family of Hanover were called to the throne by an act of parliament; but what was this but to make assurance doubly sure, and prevent not only all cavil as to what, though clear, might have been started by the family of Savoy, but to give the finishing blow to the hopes of the family of Stuart. I repeat that the Bill of Rights, having incapacitated the King of Sar-

dinia, the right of the Electress Sophia established itself at once, and would have prevailed without the necessity for any confirmatory act to give it existence; although such act, by doing away all difficulties, and smoothing the way to the throne, was wise, expedient, and politic.

This argument, founded upon the previous disabilities of all Roman Catholics, created by the known sovereign power of England, is, I think, a complete answer to all the warm declamation, as well as the nice subtleties of Sir James, in regard to what he calls the *choice* of the House of Hanover. Had Victor Amadeus been a protestant as well as King George, I have little, indeed no, doubt that the *choice*, as it is called, would have fallen upon *him* as nearer to the throne.*

But the Convention, by the *election* of William, set *aside* the claims not only of the son of James, but of his daughters Mary and Anne.†

This is a great inaccuracy, and not what one

* He was grandson of Henrietta Duchess of Orleans, daughter of Charles I.; George, grandson of the Queen of Bohemia, daughter of James I., a generation further off. See a remarkable passage of Lord Cowper's speech, in passing sentence on the rebel lords, 1715, wherein he said the king (Geo. I.) succeeded to the crown, as it was declared by the law some years before it was expressly limited to the House of Hanover. What bears still more upon the point, one reason for the Commons not joining the Lords immediately in William's reign, in selecting the House of Hanover, was that the nearer but disabled heirs, by renouncing the Roman Catholic religion, might remove their disabilities.

† Vind. Gall.

would expect from an historian. It is as known, as remarkable, that the parliament *took no notice* of the existence of a son, whose very birth was questioned with different degrees of sincerity by most of the actors on that busy scene. The claims of the son, therefore, could not be set aside; for the heroes of the Revolution, bold and enthusiastic as they are supposed to have been in asserting the people's right of election, had not the courage to make them a question: — like the chivalrous knight of La Mancha, they were prudently satisfied with the helmet, without putting its strength to the trial. Then as to Mary, far from being passed over, her title was expressly acknowledged, and she was made sovereign in her own right, in conjunction with her husband; though the latter was, for good reason, to exercise the administration of the sovereignty. Her children too, if she had any, were to succeed; and though childless by William, had she survived him, married again, and had issue, that issue, I apprehend, would incontestably have succeeded. She, therefore, was not set aside.

It is true, in the event of William's surviving his wife (which happened), he was preferred to Anne; but there is a remarkable and, I think, a most important circumstance, which ought not to have been passed by by Sir James, that his children by any other wife than Mary were postponed to her. This shows exactly how deeply impressed the Parliament were with the necessity of preserving the line of succession

in every thing but what the most absolute necessity required.

Let us even suppose for a moment that Anne, from infirmity of mind or body, (she was not very strong in either,) had been unequal to the duties of the sovereignty, and that William was, on that account, elected for life, to the exclusion of the progeny of Anne, whose right might have been protected by a regency; would that have immediately thrown down the hereditary monarchy, and let in the sovereignty of the people, as if it were elective? Would it not rather have been one of those regulations or alterations in regard to individuals in the line of succession, which we have just been noticing?

I am quite aware of the passage in Blackstone which gives colour to the supposition, that, from the finding of the Convention parliament that the throne was vacant, the whole royal family ceased to be royal, and was only renovated by positive enactments. If with various deviations, therefore, the family were replaced on the throne, it might be argued that it was only from *prudential* regard to public feeling, and not from absolute legal obligation.

"*Perhaps*," says the learned commentator, "upon the principles before established, the Convention might, *if they pleased*, have vested the regal dignity *in a family entirely new*, and strangers to the royal blood; but they were too well acquainted with the benefits of hereditary succession, and the influence which it has by custom over the minds of the

people to depart any farther from the ancient line, than, temporary necessity and self-preservation required."*

This is a most important dictum; and, were it more *positively* laid down, than with the hypothetical and cautious "PERHAPS," with which the sentence opens, would be a grave authority for the position of Sir James. He would then have had the support of a very enlightened man, when he said "the choice (of William) was, like every other choice, to be guided by views of policy and prudence, but it was choice still†;" and he might also have felt justified, or at least countenanced, in so boldly pronouncing that the elevation of William and the preference of the House of Hanover, to the exclusion of nearer heirs, might have vindicated the election of Jeffries or Kirk.

But the very doubtful and doubting word with which so momentous a doctrine is prefaced by this otherwise cautious judge, throws all, if not into confusion, at least into such uncertainty, as to deprive a man of all right to plead it as a direct authority.

It is certainly true, even without a *perhaps*, that the Convention, having all power, and with their opponents all at their feet, might, *if they had pleased*, have vested the regal dignity in a family entirely new; and the Judge might have gone farther, and

* Comment. i. 214. † Vind. Gall.

added, or might have converted the monarchy into a republic or any other form of government. But would the *power* of doing this have given them either a legal or moral right to it? Would it not all have been reducible to the right of the strongest, as formerly alluded to?

Burke himself admits the power (supported, says he, by force and opportunity), but, as may be supposed, gives it but little or no weight in a discussion of principles.

The true way of estimating the real extent of the precedent, is to inquire what were the opinions entertained, what the principles actually laid down, by the leaders and actors in the story. They at least knew their own meaning.

If ever there was an opportunity of asserting the supposed right; if duty, policy, and fairness called for the most explicit declarations upon it, it would have been in the Bill of Rights, in which the whole of the new constitution was founded. That Bill was framed by the wisest statesmen and lawyers of their time, and what is more, by Whig (Lord Somers at their head) at least as virtuous, and as much attached to rational liberty, though perhaps not so wild as those of the present day. Yet, though they intensely scanned the whole subject of the people's rights, and the principles on which the Revolution was founded, no mention of such a pretension as is claimed for them by our two political Apostles, is made, either in the debates, or in that ample Bill in

which all the other privileges which had been fought for were so amply, and perspicuously laid down.

Is it on this account that the Continuator of Mackintosh, in a fit of virtuous spleen, and admiration of the superior virtue of *modern* whiggery, denounces the Whigs even of the Revolution, in language such as the following: "The real secret, if it be any longer a secret, is, that the Whigs of 1688 *had no notion of freedom* beyond their sect or party; that with liberty on their lips, monopoly and persecution were in their hearts."

In a virtuous strain of indignation also against the dethroned family, he bespatters the whole English nation. "Their vigour, and virtue, and character," says he, "had dwindled, *from the restoration of the Stuarts.* A degenerate race succeeded the men of the *Commonwealth.*—The aristocracy seem to have been born without that sense which is supposed to be their peculiar distinction—a sense of honour." *

To what, then, in the minds of our Professors of modern whiggery, are all our deliverers, the Whigs of the Revolution, reduced? Instead of patriots, they were all mean, selfish jobbers. Vigour and virtue had fled from the seven heroes (as we were taught to think them), who, at the risk of their heads, invited William to aid their oppressed country; and the cowardly names of Shrewsbury, Devonshire, Russell, Sydney, and also of the enlightened

* Hist. Rev. ii. 149. 224.

Somers, sink into dirt before the sturdy vigour and virtue of the disinterested Commonwealth's men, Cromwell, Ireton, Vane, Martin, and Hazelrigg. Is it possible that this can find place in a history of the Revolution.

To return to our point, let us consider Mr. Hallam's view of it. "It could not be held," he observes, "without breaking up all the foundations of our polity, that the monarchy *emanated from the parliament, or even from the people.* But by the Revolution, and the Act of Settlement, the rights of the actual monarch of the reigning family were made to emanate from the parliament and the people. Hence," he adds, "the rights of the House of Brunswick can only be deduced from the Convention of 1688."*

In this just remark of a gentleman, any thing but an opposer of the rights of the people, or a favourer of despotic power, I recognise nothing but my own doctrine. The foundations of our polity *would* be broken up, if the monarchy emanated from the parliament, or even from the people; and the actual monarch of the reigning family *does* derive his right ultimately, by what was done at the Revolution. For it was the Revolution that removed, not the family, but the person of James and his son, and placed others *of that family* in his stead on the throne. It was the Revolution that *incapacitated Roman Catholics from succeeding*, and hence called into action the claims of the House of Brunswick,

* Const. Hist. iii. 345.

confirmed and sanctioned, though not, as I hold, *created*, by the Act of Settlement. I see nothing, therefore, in this opinion of Mr. Hallam, either in support of Blackstone's "Perhaps," or Sir James's absolute assertion of the power to elect "a family entirely new, and strangers to the royal blood." In truth, as I have before remarked, what seems decisive of the case is this total absence of evidence, on the part of the most republican theorists (old Commonwealth's men, like Maynard), and still more on the part of the rational but determined Whigs, like Somers, that there was any pretension in their minds to a right of election out of the reigning family. On the contrary, as we shall presently see, these very men disclaimed such a right, when reproached, as they were in debate, with the tendency of their measures to produce it. To the particulars of these debates in the Convention we shall hereafter come; meantime it is right to bear in mind that not one of the Revolutionists broached this modern doctrine of unlimited choice.

What do the votes, what does the address to William and Mary in the Bill of Rights, say? Do they talk of a *new* election by the people? or of their power to choose a new family, or new frame the government? No! even the vote of the Scotch Convention, bold as it is, and not only not warranted by law, but contrary to law, in saying that the king, who could legally do no wrong, had "forefaulted his crown;" not even this vote pretended to the right of

the nation to extinguish the whole royal family, and choose a new one.

The English vote did still less; for it ventured not, it did not even nibble at, the doctrine of forfeiture, nor dreamed of *cashiering;* it only found the throne vacant in consequence of James's conduct, and, as might naturally be expected, filled it up, in the same manner as it would do again if all heirs failed or were incapacitated. Nor is it any argument against this, that the vacancy was fraudulent, or found by a forced construction, or contrary to the fact (of which presently). In estimating the precedent recorded, we cannot travel out of the record; the vacancy is there stated as true, and, whether true or false, so we must take it. This is the amount of the precedent, and no more. To this, and this alone, are we bound; nor can any other use be made of it, than that, in the same circumstances,—that is, if the throne were again found vacant,—the same remedy would be applied. It is indeed true, that the vote of the Convention added some theoretic positions, such as that there was a compact between the king and the people, which James had broken: that, in addition to this, he had endeavoured to subvert the fundamental laws; and by this, and withdrawing from the realm, he had abdicated the throne, which was thereby vacant. But this, though it adds the history of the case, does not alter it. The case remains simply the same, in regard to the fact of the vacancy, and the power as well as the necessity to fill it up. How it

was occasioned, is of no consequence to the argument founded upon it; but it is quite sufficient for the point before us, that, though the whole proceeding of the Convention showed how much they were imbued with the spirit of opposition to arbitrary power, and their own right to supply the vacancy of the throne, by stopping suddenly short upon the question of election, and not even glancing at Blackstone's unproved supposition, they showed that they neither did, nor could, broach such a pretension.

Yet, with all this clearly before him, a noble person of the present day, to whom we cannot refuse the attribute of much reflection, does not hesitate to tell us, that "the peculiar distinction of the Revolution is not, as some have supposed, to have *established* the *right* to *depose* the king and alter the succession,—*a principle often before asserted in our history,—but to have brought into easy and undisturbed practice*" our ancient *rights* and *liberties*."*

Is not this admirable? And can you ever be thankful enough for so great a boon, of which you possibly (myself certainly) were in total ignorance, till this noble writer bestowed it upon us? For according to him, at least, nothing is now more easy or regular than to depose a king of England, which, indeed, was always a part of the Constitution; and the Revolution did nothing new, in exercising this *right*. Mr. Booth, indeed, had been before him, who dis-

* Lord John Russell. Life of Lord Russell.

covered, that before the Conquest the people set up and pulled down as they saw cause.*

We only wonder that the noble Lord stopped here, and did not tell us, as there were precedents for murdering our kings as well as deposing them, and that the one fatality generally accompanied the other, as in the cases of Edward II., Richard II., Henry VI., &c., that it was also our undoubted right to make away with them in prison, according to our ancient and constitutional privileges. †

So much for the votes.

Then, as to the address to their new sovereigns, (elected indeed, but out of the *old* family, as a *necessary* condition to their power,) did they hint even at the right of the people to look at any other family?

No! they thanked God, not that they had an opportunity of exercising their right of sovereignty, thus devolved upon them, but that he had preserved William and Mary to reign over them *on the throne of their ancestors.*

Thus, then, according to the cogent observation of Burke, if the right of the people to elect were admitted before, it was now taken from them; and

* Debate on Exclusion Bill.

† Lord John Russell. Life of Lord R. i. 164. Will Lord John pardon the liberty of telling him, that precedent and right are not the same things? If they were, all the crimes human nature ever committed might be justified.

hereditary succession, which had before existed by common law, was now enacted by statute.

Surely one would suppose, that, if the Revolution had developed this new power of the people, something would have been said upon it when they proceeded to put it in practice. But not a word was ventured to that effect; and they quietly proceeded to regulate the succession upon the emergency, as their ancestors had often done before, selecting what was most fit to meet the case, but never, for a moment, thinking or pretending that the *hereditary* monarchy was dissolved and rebuilt. Hence Burke's observation is just, that the wisdom of the nation was totally adverse to turning a *case of necessity* into a rule of law; and, as to the preference of William, it was also necessity, not *choice;* for, without him, we could not have avoided a bloody war, which seems to me to be the true account, and to put an end to all the fine-spun notions in respect to deviations being rules instead of exceptions.*

If this be so, (and I see not how it can be refuted,) we may count little upon the subtleties hazarded by Sir James to get rid of it. He attempts to reconcile what he owns is a "repugnance between the *conduct* and the *language* of the Revolutionists. Their con-

* It would swell this treatise beyond its intended limits to set forth at large the debates upon this question of *election*, to which the Tories expressly warned the Whigs that their proposed measures would lead; all which the Whigs flatly denied.

duct," says he, "was manly and systematic, their language conciliating and equivocal."*

How manliness and equivocation can be reconciled, I don't know; but he goes on, "they kept measures with prejudice *which they deemed necessary to the order of society.* They *imposed* on the grossness of the popular understanding, *by a sort of compromise between the constitution and the abdicated family.*"†

So, then, all these great and high tenets of the power and sovereignty of the people, and the actual proof of their exercise, demonstrated to the minds of every body then and ever afterwards, were, after all, *kept secret!* They passed muster *in the dark*, were never promulged or asserted, but silently pondered, reserved in the cells of the brain of political philosophers for a hundred years, and then brought out, like silver cleared of dross, fresh from the mint.

Verily, these discoveries of Sir James, that our ancestors *equivocated* us into rights, and *compromised* us into a sovereignty, which we never thought of at the time, this imposing upon the grossness of the popular understanding‡, from the fear that the people would otherwise *reject* the sovereignty offered them, are as beneficial as they are amazing; and we owe him the greater thanks for having fished up, after a century's immersion, tenets, and principles, and

* Vind. Gall. † Ibid.

‡ To continue the hereditary line, was, according to Sir James, to impose on the grossness of the popular understanding.

designs, and stratagems, from the minds of statesmen and legislators, which they had themselves, it seems, for the sake of success, *purposely* concealed.

And this is the way in which doctrines the most important and vital to the security of our constitution, and the well-being of our society, are said to have originated: their birth was kept secret, nay, hid from the knowledge of those most concerned in their promulgation, yet whose acts are supposed to have received their chief impetus from a sense of their truth. With submission, however, the silence of our deliverers as to the existence of a prince of Wales is completely decisive of our position, that they never thought, but were the reverse of thinking, of establishing the doctrine we are contesting, namely, the right of the nation to set aside a whole family for the fault of the sovereign. Had this been held, why did they not manfully declare it, by acknowledging the son of James as his natural heir, and cutting him off with his father, by virtue of their inherent inalienable power? Instead of this, what have we but mean subterfuges to get rid of a question which they were afraid to encounter, but which, perhaps, they prophetically consoled themselves with thinking would be demonstrated for them a hundred years afterwards by Price and Mackintosh.

But the best is, that Sir James himself immediately refutes his whole supposition by showing its absurdity. In particular, he well exposes the inconsistency of the position of an *election*, with the thanks to heaven

that the new sovereigns had been preserved to sit on *the throne of their ancestors.* This, says he, either referred to their descent, which was *frivolous*, or insinuated their hereditary right, which was *false.* Need I remark, that this mode of putting it begs the whole question?

The same inconsistency, he remarks, attends the choice of the family of Brunswick, *because* of their descent from James I. If, says he, this (that is, the hereditary right,) were the sole reason, the right was in Victor Amadeus; and he then asks, triumphantly, what answers Burke or Lord Somers could make to these charges?*

According to us, the answer has already been given. The Bill of Rights had incapacitated all Roman Catholics, the House of Brunswick were the next protestant heirs, and as there was no claim at the time to this new right, (only lately discovered,) of a power to frame a new government, and new ruling families, but the intention was merely to fill up a vacant throne out of the old one, so far from inconsistency there is the most perfect conformity to the proposition we have laid down, the election of an individual, but no invasion of family rights; William preferred before Anne, but Anne preserved; Hanover before Savoy, because Savoy disabled.

Sir James, however, says, and not unfairly for one who holds the argument he does, that "it is futile to

* Vind. Gall.

urge that the convention deviated *very slenderly* from the order of the succession. The deviation was, indeed, slight, but it established the principle, the *right to deviate.*"

Yes, the right to deviate from the general rule as to individuals in the line of succession, but not to depart altogether from the constitution, not from the choice of a particular family enjoying an inheritance. If this were so, the precedents of William Rufus, Henry I., and Stephen, of Henry IV., Richard III., and Henry VII., all of whom were preferred to the next heir, (besides the fluctuations between Mary and Elizabeth,) would deprive the Revolution of all the honour of this new principle of election. I have already asked, if the precedents ever did so in the doctrines of any constitutional lawyer before the Revolution.

Sir James, proceeding in his defence of Price's notion of cashiering, next asks, whether the deposition of King James, for the abuse of his powers, does not *establish* a *principle* in favour of the like deposition when the like abuse should again recur?

Here, for *principle* we should read *precedent*, or else both are confounded, and all wickedness (for which there is generally precedent enough) may be defended upon a *principle.*

That the Revolution formed a precedent, nobody can doubt, any more than that the deposition and murder of Edward II., Richard II., and Charles I., formed precedents. Will they, on that account,

furnish a *principle*, that all other princes in the same circumstances may be deposed and murdered?

We see, then, how dangerous it is to get entangled in a labyrinth of difficulty, by endeavouring to reduce cases of unforeseen and sudden emergency to the forms of law. The amount of the precedent of the Revolution is what did not require the authority of that or any precedent to justify it — the right of self-defence when attacked. This, and no more.

Even Mackintosh himself admits that the "*misconduct*" stated by Price, as warranting our power to cashier our kings, must, in future, amount to "the precise species of misconduct committed by James; and he is angry with Burke for fixing Price to so feeble and loose a term as misconduct.

But Burke did not class petty faults under the misconduct predicated by Price; and if nothing short of James's crimes amounts, in Mackintosh's understanding of it, to the meaning of misconduct, how does he account for his own assertion, that "*of the justice* of a war against Charles II. (meaning an insurrection) no man can doubt, who approves that revolution on which the laws and liberties of England now stand.*

What, then, was Charles as great a criminal against the laws as James? This, I own, I am to learn. He was a bad man, and despicable prince;

* Hist. Rev. ii. 90.

he wished to govern without parliaments; his connection with France was not only impolitic but infamous; the second Dutch war could not be defended; the shutting up the exchequer was dishonest; and many proclamations in the year 1672, such as those concerning martial law, and various others, savoured of arbitrary power; but, above all, the declaration of indulgence, so pleasing to the Catholics and Dissenters, so terrific to the Church, filled the latter with alarm. But, exclusive that for all these there were legal remedies by the impeachment of his profligate ministers (Shaftesbury, that child of rebellion, among them), would these have given a right of war in his subjects against him? If so, what becomes of the explanatory assertion, that kings must be precisely in the same situation with James to justify the same punishment of them by their subjects? But if we grant the right of war against Charles, where is the reign in which acts of impolicy or power might not, with very little colouring, be made to amount to a legitimate cause of insurrection? The question of general warrants, the late poor laws, or the marriage act, so much complained of at the time, or the excise (such an invasion of liberty, though imposed by law,) — might not each of these, if Sir James or Price be right, have been a call upon the subject to arm against the throne? There was immorality enou h in Charles; but, as there was no personal oppression, are we not warranted in demanding of this our instructor in the principles of resistance, to point out

the special case or cases of tyranny and misconduct which would justify the right of war against him, which, he says, was so undoubted? We should, then, force him from his stronghold of generalities, and be able, at least, to understand him.

I will, however, give him one. The greatest breach of the law, though, perhaps, not the greatest instance of misconduct by Charles, was in governing without parliaments spite of the triennial bill. This, had there been a chance of success from union or numbers, or the aid of the Prince of Orange, as in the time of James, might have justified an armed rising to force him to obey the law of the constitution. But here was a specific attack upon the rights of the nation, which might have been resisted by the law of self-defence, without any recourse to refinements respecting a dormant sovereignty of the people, which none of them could understand.

On the other hand, we have seen the misconduct of the popish plot parliament, which, if the invasion of *moral* rights is to justify war, would have authorised a thousand revolts against *them;* and the rather, because parliaments have no ministers to be responsible for them; but this it does not suit the advocate of the people to notice.

As it is, if, as Sir James requires, the misconduct cited by Price is to tally with the precise misconduct of James, it at once destroys the axiom as a *general principle* authorising us to cashier our rulers. Yet, as a general principle, and with no explanation, it is

laid down by the political divine, as if it were the postive law of the Constitution, not merely a moral right.

This, however, is confuted ably, but strangely, by Sir James himself; strangely, because he is fully a participator in the same doctrine.

"No man," he says, "can deduce a *precedent of law* from the Revolution; for law cannot exist in the dissolution of government; a precedent of *reason* and *justice* can only be established on it; and, perhaps, the friends of freedom merit the misrepresentation with which they have been opposed, for trusting their cause to such *frail* and *frivolous* auxiliaries, and for seeking in the *profligate practices* of *men* what is to be found in the sacred rights of nature."

Why, then, I have all this time been mistaking the eloquent advocate for the Revolution, particularly where he asserted, that the deposition of a king for the abuse of his power *established* a principle in favour of the like deposition when the like abuses should again recur; all which, he says, was done by the Revolution.

Now, I suppose, I need not observe, that to *establish* is to form or create something new — something that had not existed before. We certainly should not say that we had *established* a monarchy in a country where a hundred kings had reigned. The Revolution, therefore, according to Sir James, having *created* this principle, was lauded with the eloquence due.

Who, then, could expect that its advocate should,

almost in the next sentence, denounce it as " a frail and frivolous auxiliary," or that it arose from the profligate practices of men, instead of being a sacred right of nature."

This is, indeed, wild work, and a total contradiction; for, if a sacred right of nature, the Revolution did not *establish* it: it was known to every born man; and the doctor has really very much to complain of in Sir James for having, by the discovery, reduced his all-conquering and resistless case to a frail and frivolous auxiliary.

SECTION IV.

CHARACTER OF THE REVOLUTION.

HITHERTO we have been occupied with canvassing principles, prompted, as is said, by the facts of the history; and, were those facts all as represented, my task would be over.

But the object yet wants much for its completion; for though, as to the event, there can be no difference of opinion, as to the character and colour of the facts that led to it there may be a great deal.

The general impression from the history, as we love to believe it ourselves, and to teach it to our children, is, that James, being a tyrant, we were driven not merely to oppose him in self-defence, but, that using the rights of sovereignty vested by nature in a great, free, and enlightened people, the nation rose as a man, in judgment upon his acts; and, finding him guilty, deprived him of the power he had abused; that they, therefore, withdrew an allegiance of which he was unworthy, and filled his place with one better deserving their confidence; that all this was done

upon principles well understood, gravely discussed, and bravely as well as justly enforced, by a set of heroes and sages, whose patriotism, courage, and honourable dedication of themselves deserve the admiration and everlasting gratitude of posterity, and the whole world, to whom they exhibited the august and magnificent spectacle of a nation of freemen calling to account, and punishing by forfeiture, its sovereign magistrate for a breach of trust.

Farther, it appears that, being too weak to effect this of themselves, they called in the aid of a great and glorious military deliverer, who, out of *pure love of justice, and a disinterested* attachment to their liberties, suppressed all inferior calls upon him of duty and affection, as the son-in-law, friend, and ally of King James, and sacrificed every private feeling to this holy object. On this *national* invitation, the deliverer cheerfully hazarded his life and the resources of his country, for no ambition of his own, but purely to restore an oppressed people to their rights and independence, who used them, when recovered, uninfluenced by any fear or other motive than their own will, to place him on the throne which the tyrant had forfeited. Finally, that all this was done without tumult, or the exertion of any force, but by the people themselves, through their representatives in parliament assembled, and, therefore, by their own free and unbiassed voice;—a noble, and even stupendous, example of the most stupendous, as well as beautiful, theory of natural rights which the world ever saw.

Such is the account of this great event, which, as was before observed, we endeavoured to believe ourselves, and love to teach to our children.

Now I do not say the picture is *altogether* false; the result, happily for us, *seems* to warrant its correctness.

How far it is really just, is a question as momentous as it is interesting. For, if we examine its details with critical strictness, are we sure we shall find in it that exhibition of patriotism or public virtue in the actors, or even of disinterested generosity in the deliverer himself, which we fondly, and not unnaturally, wish to believe?

Upon dissecting the character of the event itself, and more particularly of its authors, what shall we say, if we find that the nation at large had at first very little to do with it, that it was mainly promoted by men who intrigued at least as much for their own benefit as that of the people, (the usual character of common-place patriots,) and that William himself fomented the discontents, which were, in the end, to aggrandize him, with a view to his personal ambition, and a passion of far more consequence to him than the love of liberty which he professed?

The passion I mean was to liberate Europe, not England, by humbling France; and that so stupendous an enterprise as he undertook should be only secondary in this pursuit, enhances our ideas of the vastness of his genius, and the grandeur of his mind.

Let us (for must we not) add to this, that even our darling notion that our love of liberty, and the defence of an invaded constitution, were the paramount and deciding causes of our resistance, is not to be asserted without great qualifications. Therefore, so far our merit, as Liberty's favourite sons, is not so unmixed.

You will see, at once, that I mean how great a share religion had in every feeling which, on this occasion, prompted men to action. Had the love of Protestantism and hatred of Popery not been interwoven in the nature of almost every man concerned in the Revolution, had the tyranny of James not meddled with the religious faith of his subjects, for one, I feel warranted in thinking our far-famed Revolution would never have existed.

It is very certain, I think, that, but for their religious jealousies, the troops at Hounslow would not have grounded their arms, and, still more, that the bishops would never have dreamt of petitioning against a declaration of the king.

We know how much the love of liberty, in the great civil war against Charles, was sullied and stained by the grossest and most disgusting fanaticism, amounting often to blasphemy.

Without this fanaticism, is it unfair to question whether Cromwell, or Vane, or Harrison, could have effected what they did? Is it less so to make the same question as to the full motives of our revolutionists?

Even Marlborough professed that, though he pretended not to be a saint, he was able to die a martyr for his creed. Would it be a great stretch of incredulity to doubt whether he or another military enemy of popery, the enlightened Kirk, felt such soreness at the invasion of their civil rights as to draw the sword against the master whom they had served, and whose money they had pocketed so long, without any protestation against it?

We must not, therefore, look at the Revolution with a pure unmixed Roman spirit, nor think that love of country, and an enlightened understanding of laws, alone incited our ancestors to this great undertaking. Neither, on the other hand, can I believe, with Lord John Russell, that James the first embraced the Roman Catholic faith because he found it most congenial to his own love of arbitrary power. Of that love there is too abundant proof, — for no one can deny that "Cæsar was ambitious." Any more than that "grievously hath Cæsar answered it;" but the merits or demerits of his opponents is an open question. We pass, therefore, the sins of the king, as too glaring to be doubted, and also the question as to his prudence or courage in meeting his difficulties; but not so can we pass the conduct of those subjects who advised or betrayed him, any more than the moral conduct of his son-in-law, in maintaining, for a great length of time, a correspondence with those subjects for the purpose of revolt.

Yet, during all this time, William was making the strongest protestations of duty and attachment to his father-in-law, whom he was thus preparing to dethrone. At the same time, in order to show the spirit in which a modern Whig can write (for Mackintosh is called by his Continuator *emphatically* a Whig of the Revolution,) and, therefore, to appreciate the impartiality of his judgment, I cannot help transcribing a few passages in regard to the king and the prince.

In his letters to William, James was brief and dry, nor can we be surprised at it. "This betrayed the violence he did to his nature in writing them." I know not how it does so: but the Continuator adds that James "combined with his harsh character that common art in the education of princes, and exercise of kingcraft, dissimulation."*

Well, was the prince (though in him, being only a prince, and at the same time a deliverer, there could be no *kingcraft*,) exempt in a greater or in any degree from this crime?

See what the Continuator himself is forced to say of him, in regard to his communications with the disaffected subjects of James. "Affecting towards him, with an air of patient tranquillity, the deference and duty of a son, he gained over the subjects, sapped the throne, and, finally, made himself supreme arbiter

* Cont. of Hist. Rev. ii. 106.

of the fate of his father-in-law, *under the pretence* of zeal for a church, and affection for a nation, to neither of which he belonged."

Again, in a letter from Fagel to Stuart, an agent of the king, the pensionary says, "their highnesses have ever paid a most profound duty to his majesty, which they will always continue to do, for they consider themselves bound to it both by the laws of God and man." This was after concert had been made to dethrone him, but, being in the cause of liberty, I suppose it was *not dissimulation.*

In another passage, speaking of Dyckvelt's instructions from the prince, 1685, *more than two years before the invasion*, he says, only one article came within the duties of an ambassador, "*the rest was a warrant for improper practices with the king's subjects.*" No wonder that Sunderland, who had discovered the whole design, though he basely concealed it from his master, should observe to Barillon, that the most difficult of all things was concord between two persons of whom one impatiently longed for the crown worn by the other.

Excellent proof of disinterestedness in William!

But then comes in the plea, that all deceit may be excused in the cause of the sovereign people. "The nearest interests of the Prince of Orange were *at stake:* the subjects of James conspired with a foreign prince for their laws and liberties; and, *in such a case, men do not look very narrowly into the obligations of in-*

ternational and municipal jurisprudence."* No modern radicalism is made of sterner stuff.

Once more: — "He (Zuylslein) was sent over with their congratulations to James and his queen, on the birth of their son, at the very moment when the prince, and, as far as she was competent or allowed, the princess, were preparing to dethrone the parents, and bastardize the child."

This startles the natural good feeling of the modern Whig.

But mark how soon the man of nature is lost in the man of the people.

"There is in all this," he observes, "something revolting *at first sight*, (what, only at first sight!) considering the relations of blood and marriage between the parties; but it should be remembered, in *extenuation*, that James was trampling at the time on the liberties and sentiments of a free people, that the Prince of Orange *had a contingent interest in the succession to the crown* in his own person, AND THAT THE TIES OF NATURE ARE MADE ONLY FOR A FREE PEOPLE." †

What the phraseology of this last observation means, I do not exactly know. If that none but a free people can feel the ties of nature, it is false. Possibly they feel them less than others, for public virtue, to be public virtue, must and does extinguish

* Vol. ii. 123. † Hist. Rev. ii. 147.

the charities of kindred. This is proved by the whole history of real and genuine patriotism; witness the Spartans, Timoleon, Junius and Marcus Brutus, and many real or pretended patriots. I guess, however, that the sense intended is, that the ties of nature no longer bind where freedom is at stake, and that therefore dissimulation, in the cause of liberty, is heroic virtue, while, in a monarch, it is the exercise of art and *kingcraft*.

In another place, the Continuator does not scruple to hazard a conjecture, which I, at least, never remember to have met with in any other historian, that the hero William, the greatest man of his time, (for such I think him,) would not have hesitated to murder his father-in-law if necessary to his object.

He had already said, that William had been suspected of having connived at the destruction of the De Witts, and it is thus he writes concerning his possible disposal of James.

"If the existence of James presented itself as a bar to the ambition of the Prince of Orange, can it be supposed for a moment that the most aspiring of politicians, and most phlegmatic of Dutchmen, would have seen in his wife's father *any thing but a political unit of human life?*"*

What a mild wording is this of a hint that our great deliverer would have had no scruple to murder

* Hist Rev. ii. 245.

his father-in-law. I suppose, however, that for this the former excuse would have been allowed, and that "the ties of nature are made only for a free people;" in other words, that murdering a king by his son-in-law is no crime when in the cause of liberty.

In asking why the confederates of Augsburg submitted so long to the aggressions of France, the historian says, they were probably kept back by the Prince of Orange, because "he had not yet sufficiently concerted with his *English partizans* the dethroning of James, the placing his crown on his own head, and the embarking of England, with her national resources and antipathies, in the league of Europe against Louis XIV." *

Of a piece with this is the assertion of Burnet, that William aspired to the crown in 1686, more than two years before the invasion, and long before the measure of James's aggression against the laws was full.

Lord Dartmouth told James, from the time of Monmouth's invasion, he was confident the prince would attempt it; but the following is remarkable: —

The Prince at the time (1686) contemplated being king of England, but could imagine it only on the supposition that James was deposed, and the throne *vacant*. "If the crown devolved upon the princess his wife, on her father's decease, he would not have

* Hist. Rev. ii. 110.

the slightest ground to expect that the order of succession should be departed from, and the rights of the Princess Anne sacrificed in his favour. Nothing but the shock of a revolution, the necessities of the time, and the merit of a deliverance, could warrant a man of his sagacity in such an expectation; and it was only by a very small majority of one house of parliament, that these causes, co-operating with others, raised him eventually to the throne."

But William proved, at a much earlier period, that he had little tenderness for the rights of his father-in-law.

He declared his wish, "that the bill of exclusion should be carried rather than the powers of the crown should be diminished." * He received "with pleasure the proposition of enacting, that the princess should be regent during the life of her father †;" and it would appear from a letter of Montague to him, after he became king, that he knew and approved "the Rye-House plot." ‡

If this were so, we cannot wonder at the expressed opinion that, "whilst other great political changes in nations and governments have been achieved by resolute spirits from motives of ambition, vengeance,

* Letter of the Prince of Orange to Sir Leoline Jenkins. Dall. App. p. 306 et seq.

† Ibid.

‡ Letter of Lord Montague to King William. Dall. App. part ii. p. 339.

love of liberty, or love of country, it will be found that, in the ruin of James and elevation of William, the dominant elements were intrigue, perfidy, and intolerance." Possibly this is exaggerated, but as to the motives of the patriots who invited the Prince, we agree that the tone of the letters they sent to him inviting him over, "was too like that of vassals transferring their service from one absolute lord to another.

"Religion is often mentioned, liberty and country *never*."

We agree also, that "Viewing the Revolution of 1688 at this distance of time, and with the lights of the present day, it is impossible to deny James a certain superiority in the comparison of *abstract* principles.

"*His* standard bore the nobler inscription.

"He proclaimed religious liberty impartial and complete; and had he not sought to establish it by his own lawless will, had his proceedings been but worthy of his cause, posterity might regard him, not as a tyrant justly uncrowned, but as a beneficent prince, who became the victim of an intolerant faction, an overweening hierarchy, and a besotted multitude."

On the announcement of the intention to call a new parliament, the prince is stated to have been *alarmed*. — "Whilst a hope remained that rights would be secured, and wrongs redressed, it was *feared*

at the Hague that the mass of the nation, and the leading party chiefs, would shrink from the extremities of foreign invasion and domestic war." *

How devoted here seems the prince to the happiness and liberties of England!

Of the virtuous fairness of the patriots, in their clear cause, we may judge by their treatment of the queen, and the doubt which they every where spread of her pregnancy. This was placarded on dead walls; and a pasquinade, appointing a day of thanksgiving for the queen's being great with a cushion, was fixed to the pillars of a church.

The prince's declaration itself was criticised by many zealous friends to liberty, among them Wildman, and Lords Mordaunt and Macclesfield, who rested it upon its *true* basis, a reform of the political government, *and not the petty warfare of parties and sects.* † But, with the exception of these three, it should seem that there was little but self-interest to kindle the exertions of that great mass of patriotism which the nation was supposed to contain.

Take a specimen from the exhibition of political virtue in one of the chief naval leaders, Herbert, afterwards, for this virtue, made a peer.

Writing to William with offers of his support, some months before the invasion, he says, "It is from your highness's great generosity that I must hope

* Vol. ii. 132. † Burnet.

for pardon for presuming to write in so unpolished a style, which will not furnish me with words suitable to the sense I have of your Highness's goodness to me *in the midst of my misfortunes.* I have a life entirely at your devotion, and shall think every hour of it lost that is not employed in" (my country's? No! in) "*your Highness's* service." *

Is this the letter of a dedicated martyr to his country's wrongs, or of a sycophant courting a new master?

The Continuator of Mackintosh observes upon it, that the misfortunes of this patriot consisted in his being dismissed from places at court, which he held at the king's pleasure, upon his refusal to support the king's government †; to which Burnet adds, that being sullen, proud, and morose, the preference of Dartmouth to him in the command of the fleet was the principal cause of his joining William.

A very pretty patriot in the minds, observe, of other patriots, who record this of him!

The declaration of the prince contained two great pledges.

The calling a free parliament; and to inquire into the birth of "*the pretended* Prince of Wales."

William fulfilled the first. Why did he not do so by the second?

He was afraid of the *truth.* Was this the justice, the sincerity, or the grandeur of mind which are

* Dall. App. p. 11. † Burn. i. 762.

said to have actuated the authors of our *glorious* Revolution?

What does Mackintosh's Continuator say of the "seven *distinguished* patriots, who with Roman virtue signed the *invitation;* and who, therefore, may be considered as the leading specimens of our revolutionary virtue?"*

They were "men who deserved well of their country, but who wanted grandeur of achievement and stature of mind, to figure as personages *truly historic;* and whose names have failed to become classic among the *destroyers* of tyrants, or the liberators of nations."†

What does this mean?—that the writer would

* They were Shrewsbury, Devonshire, Danby, Lumley, Compton, Russell, and Sidney. Hallam calls them the seven eminent persons who signed the Declaration. With the exception of Lord Devonshire, a noble gentleman, and Lumley, who was at least without stain, they were all eminent rogues. Shrewsbury and Russell proved themselves afterwards to be traitors to the cause they now espoused; Danby was guilty of the most infamous corruption, from private motives, as he had before been (and lay five years in prison for it), when as Lord Treasurer he connived at King Charles's taking bribes from France. Compton, as we shall see, was a cowardly and deliberate liar, when taxed with signing this very Invitation.

† p. 149. From this reproach, he should have excepted the Earl of Devonshire, a man, from every account of him, worthy of antiquity; full of honour, full of courage, ardent for liberty, yet a friend to the laws; in short, deserving the epitaph written by himself, and placed upon his tomb:

"BONORUM PRINCIPUM
SUBDITUS FIDELIS,
INIMICUS ET INVISUS TYRANNIS."

have wished them to assassinate James, as Brutus (that classical name) did Cæsar? or legally murder him, as Cromwell did Charles?

He goes on thus:—"It is a remarkable fact that not one great principle, or generous inspiration, escapes them in that document.

"Their Invitation is a cold, creeping, irresolute address."

The imprisonment of the bishops, and imposition of a spurious heir, were put forward as the grievances which immediately provoked and justified the expedition. But these incidents were merely seized upon as favourable (we might add *false*) pretences. The prince had *resolved* upon it *long before.* The Declaration itself was in fact one of those politic manifestoes which are issued by all *invaders* to *mask*, not disclose their purposes.

If any thing were wanting to prove this, William writes to Bentinck his *distrust* of the English parliament, on *whose mercy he must throw himself;* and that to trust one's destiny to them was no slight hazard. Finally, he reveals to his Dutch counsellors that he hated parliaments, like Louis and James."* Admirable sincerity!

Then as to those who signed the Invitation, as one of the chief reasons of the increase of discontent announced in the nation *is not so much the invasions*

* Letters from William to the Earl of Portland, quoted in Hist. Revol. ii. p. 164.

of liberty, as the attempt to impose upon them a supposititious heir, they inform him that his complimenting the king on the birth of the child has done him some injury; and instruct him, therefore, in his declaration of the causes for entering the kingdom in a hostile manner, *to rest his chief reason* upon this imposition.*

Thus roguery, deliberate falsehood, and cunning glare out through all this veil of patriotism; but being patriotism, it of course is excusable.

In the paper war that followed on this declaration, that the prince aspired to the crown is positively denied, which the Continuator himself of Sir James thinks so untrue, that he points it out as remarkable.†

In all this, but particularly the plot as to the Prince of Wales, I own I see a mean and miserable conspiracy to mystify facts which none but a weak zealot or designing knave ever said he disbelieved; and look in vain for that noble spirit of freedom which calls a population to arms, spurning all pretences but the true one, for the assertion of their rights.

Whatever were the now *proved* designs of William upon the crown, they were, at the time, concealed, from the fear that an open profession of them might endanger their success in the minds of the really honest subjects of James, who sought to defend themselves but not destroy *him*.

* See the Invitation. † ii. 204.

I do not blame this policy in William or his abettors, supposing the object defensible. "Dolus an virtus, quis in hoste requirit?" It is the hypocrisy of the pretence in persons who are supposed champions of the sovereignty of the people, and the meanness of their stooping to such low arts in the assertion of a cause supposed so clear, and really so noble, that move our indignation. Nothing of the real design was avowed at first landing. On the contrary profession was every where made that to regulate, not destroy the existing government, and bring back the constitution to its proper limits, were all the objects desired. To meddle with the person or crown of James, was jealously disavowed.

How true this was, may be gathered from the conversation between a confidential agent of the prince and Lord Halifax, when the latter was sent by James to treat, only about a month after his landing.

The agent reproached Halifax for attempting a *delusive* negociation, when there was no room for trust, *and every thing must be built on new foundations, and a total change of persons.** A worthy proof that William only came as a deliverer, with no design whatever to dethrone James or seize the crown himself!

Does not the mind revolt at these gross deceits?

Not that the invasion itself was not fair, and even

* Quoted in Hist. of Revol. p. 11, from Dalrymple.

politic for the nation. It is the hypocrisy with which it was conducted that provokes our animadversion.

We are shocked at this wretched hypocrisy and the falsehood of the pretences under which it was promoted.

The triumph of our patriotism fades as our inquiries proceed. We sicken to think of the truth; and we have little exultation in being forced to confess the error we have been in, as to the real character and views of our glorious Deliverer.

Even in the conduct of this great enterprise (at least in its commencement), we search in vain for that supposed universal and simultaneous effort which belonged to a great and aggrieved nation, sensible of its rights, and determined to assert them or perish.

On the contrary, all was not so much fear, as apathy and indifference.

That at first, or at any time, it was a great and unanimous national movement, is at least not supported by the reception which the prince received.

Far from being warmly welcomed or welcomed at all, he was forced to lay the country under contributions, which he seems to have levied very *unscrupulously*.

This was little like a delivery.

His officer whom he sent to summon Exeter was committed to prison by the mayor, and the gates were closed against Lord Mordaunt who went with

horse to take possession. Being an unfortified town, without a soldier in garrison, it was soon surrendered, but this showed any thing but good will.

The mayor would neither acknowledge nor hold communication with the *Deliverer*, who was received where he advanced in person, no better than his officers. The bishop and the dean retired, the first to the king; and when Burnet took possession of the pulpit in the cathedral, and not over decently converted it into a political club, by reading the Declaration; on commencing it, the canons, the choristers, and the greater part of the congregation withdrew. Kennet declares that when Burnet concluded his address and said, "God save the Prince of Orange," the major part of the congregation responded "Amen, Amen;" but even the Continuator construes this to be only the major part of *what remained*, a sneer not unremarkable in so zealous an advocate for the invasion.

The presbyterian Ferguson met with still greater opposition from his brother dissenters; for going to the meeting-house to address them, he found the door closed upon him, and could only gain admittance by force.

In this situation the prince remained *nine days* (an immense retardation), without progress or being joined by a single person of distinction. Had James possessed half his vigour, there would have been an end of him, for any thing the nation did to prevent it.

He gave commissions to Lord Mordaunt, Sir John

Guise, and Sir Robert Peyton to raise regiments, but they could make no levies; and he began to turn his eyes to his mast-heads. So little was this great cause of liberty upheld by those whose bosoms were supposed to be all on fire to assert it.

While every thing was thus flat, and hope itself almost deadened, the prince even suffered it to be proposed to him that he should re-embark.

Did this look like the pronounced sense of a bold and injured nation resolving to be free?

In fact Lord Dartmouth says, William suspected he was betrayed, and resolved, upon his return to Holland, to publish the names of those who had invited him, as a just return for their treachery, folly, and cowardice.

So much for the heroism of our great patriots, and the universal feeling of the injured nation.

Argue then as we please for the supposed wishes of *all*, or even *some* ranks, the success which afterwards attended the Deliverer was owing chiefly, I should rather say entirely, to the want of energy, the doubt, and indecision of James himself, and the scandalous treachery of those whom he had loved best, and who professed most for his service.

This was far more efficient than any general or active feeling expressed by the community at large.

Had James with his army been in the neighbourhood of the prince when he landed, the probability is he would have beaten him directly, if only from the coldness and want of support of those whom he

came to deliver; while on the other hand at sea, had the winds and tides permitted Lord Dartmouth and the fleet to have engaged him in his passage, such was the fidelity of the Admiral and the crews, and such the point of honour of even the disaffected officers, who all said that if they met the Dutch fleet they must fight, that probably we should have heard little of the landing in Torbay.

As we proceed with the enterprize, I fear, though successful, it was any thing but glorious.

The Declaration having stated that the prince had been invited over by several lords *spiritual* as well as temporal, the king sent for the bishops and asked if it was true. Compton, of London, who had *signed* the Invitation, staid away, pretending to be out of town. No harm in that. But he appeared the next day, and being questioned by James, told a deliberate and wilful falsehood, in order to conceal his treason; and this he repeated upon being questioned again the day after, which satisfied the king, who said he believed them innocent. Soon after, this bishop planned and effected the escape of the weak child of James, the Princess Anne, and joined the Deliverer. Compton, for this conduct, is canonized, if not as a saint, at least as a hero and a patriot; to humbler conceptions of the moral duties of clergymen it seems that his conscience must have been not exactly that of an apostle.

The Declaration was everywhere dispersed: it was written by Fagel, and according to Burnet himself

who shortened it, was long and dull. Dartmouth says that though it was shortened, it preserved its dulness. Answers were published, which the Continuator of Mackintosh allows had the superiority in argument. "The prince employed *pretences* as well as the king. *Ambition* could, no more than tyranny, dispense with a mask. There was a rejoinder on the part of the prince. One sentence may be worth remembering; the defender of the prince treats the imputation of his aspiring to the crown, as a *grievous* calumny." *

After what has been related, I need not ask you why the Continuator of Mackintosh thought this was worth remembering. It was a gross falsehood; and he had said, and with no small, though at the same time with natural indignation, that the Revolution was brought about by *false* pretences.

At length, encouraged by the supineness of the king, the gentlemen of the south-west began to come in, Sir Edward Seymour at their head, who then proposed an association which was acceded to; yet, so little was the concert or the trust reposed in him that the prince suspected, and ordered an officer to *watch* him. He then reproached them all with their dilatoriness. His language was very memorable. He did not address them so much as the protector of suffering but high-minded patriots, resolved upon liberty, as a party himself concerned who had rights and a cause of his own.

* ii. 204.

His language was regal, if not insulting. It is at least remarkable. "We expected," said he, "that you that dwelt so near the place of *our* landing, would have joined *us* sooner. Not that we want your military assistance so much as your countenance and presence, to justify our declared *pretensions*, rather than to accomplish our *good* and *gracious* designs."

He then proceeds, in a tasteless and hollow strain of more than regal pomp: "Though we have brought a good fleet and army to render these kingdoms happy by rescuing all Protestants, (*et cætera,*) yet we rely more on the goodness of God and the *justice of our cause* than on any human force and power whatsoever." Here let us pause to inquire (for it is by no means apparent) what he means by God and his cause. What cause had *he*, whatever might be that of a nation? What claim to England, or the rights even of the meanest citizen, unless naturalized, which I do not find he was? His cause therefore was that of a conqueror, and his object that which he had disclaimed, the throne.

He finishes thus: "Therefore, gentlemen, friends and fellow Protestants, we bid *you* and all your *followers* most heartily welcome to *our court* and *camp*."

What think you? Is this the language of a man, however magnanimous, who as a lover of liberty, armed for its defence from a generous disinterestedness to aid the rights of oppressed sufferers, and restore them to their own? or, of a prince pretender,

seeking his own objects, and making use of those he pretends to relieve, to obtain them? I own, had I been a Devonshire squire I should, after this, have hesitated before I joined him, on the principle of rather bearing the ills we have, than fly to others which we know not of. It is certain that such a squire would have paused till he had obtained some explanation of what was meant by a *foreign prince*, not even an Englishman, when he talked *of the justice of his pretensions*. Even the Continuator of Mackintosh is provoked into the observation that "he made very light both of the previous invitation and the countenance of his English friends, compared with his own pretensions and the good and gracious obligations he was conferring upon the three kingdoms; and that he, a distant contingent claimant, sought the crown of these three kingdoms as a return, while he *professed* to practise virtue as its own reward. He departed, in addressing the English, from the manly simplicity with which he was accustomed to address the Hollanders. The English people, *as if by a tacit understanding**, are never named; none are recognized beneath the condition of *gentlemen*, unless by the feudal and contemptuous denomination of *followers*. It is a distinctive trait of the Revolution, *that the people* are not parties to it, even by name, as a decent formality." †

* Evidently, as is meant, with the gentry, in contradistinction to the people.

† ii. 309.

So far the opinion of the historian of the Revolution, on the conduct and views of its own hero; who had as yet made little advance, still waiting, we seppose, for the great and universal defection which was to follow. Even in the defection which did follow, I know not while James remained true to himself, that we can detect any thing of that unanimity even among the troops, still less in the efforts of the unarmed population, which might entitle them to be denominated *national.* Few or no civilians had joined; and, though some of the officers of sufficiently high rank, being also men of birth connected with the planners of the undertaking, took opportunities to desert, they carried over with them few, nay, were opposed by most of their men. The first patriot deserter, Lord Colchester, could only "*seduce*" four troopers to accompany him. Lord Cornbury indeed, James's nephew by marriage, deeply wounded him by joining the prince; but even *he* failed in carrying over much of the military force. On the contrary, he was forced to use stratagem and falsehood to make them move. Being left in command of three regiments of horse at Salisbury, he marched with them towards Exeter, pretending to have orders to attack a post of the enemy. His major, Clifford, demanded a sight of his orders; and, with major Littleton and other officers, questioned him so closely, that he lost his presence of mind, and fled from his own men with some officers indeed, but only sixty troopers. Langston, who commanded one

of the regiments, now told them he had brought them not to fight, but to join the prince; upon which his major, Norton, and several subalterns refused obedience; for which they were dismounted, disarmed, and plundered, and with "much ado," says James, "got liberty *to return on foot to the army.* The other two regiments, *seeing themselves bretrayed,* fled back in disorder. Most of the troopers of Langston's regiment returned as they found opportunity, "which showed," says the king, "greater honour and fidelity in the common men, than in the generality of the officers, who usually value themselves so much for these qualifications." * This is any thing but a proof of a simultaneous effort of a resolved and unanimous nation.

Lord Clarendon, Cornbury's father, apparently in despair at the conduct of his son, ran to throw himself at the king's feet, who received him with kindness and pity, only to see him soon after desert, *more meanly* than Cornbury himself. Assuredly, neither father nor son were heroes nor

* Life of James II. There is also a very curious and a very interesting account of this transaction drawn up by the major (Norton, above mentioned), which so graphically sets forth the hard and nefarious treatment of these men, and the scandalous means attempted by the officers who deserted to seduce them from their allegiance; that, with a view to the *important* information it contains upon a point rather slurred over than examined in almost all the histories, I have thought it but right to throw it into an appendix. The narration is in a letter from Norton, preserved in Carte's Memorandums, and published by Macpherson.—See APPENDIX to this, No. i.

men of honour, though they might be very virtuous patriots.

A farther proof of the little alacrity that was shown at first to join the prince, was in the capture of Lord Lovelace, who, proceeding with seventy horse (who probably knew not his intentions) to the army of William, was attacked by the militia, and made prisoner with thirteen of his men.

The rest of the army it should seem, with the exception of some of the officers, would have remained firm to their duty, but were paralyzed by the total incapacity of their general, Feversham, and the vacillation of the king. On the first rumour of desertion, Feversham abandoned all his posts, and retreated towards London. There the king remained, confounded more (and with reason) by the treachery he expected, than what he had already experienced. Sunderland, Godolphin, Churchill, his ministers, his military officers, his friends, to which add his daughter, were all preparing to desert, nor did he know whom to trust. One does not blame these persons for taking part against him, but one abhors the execrable treachery of continuing to serve only to betray him. Where was the manliness, the devotion to an heroic resistance of tyranny, exhibited by these high persons in the following scene between them and their master?

After holding a council with his ministers he summoned his general officers and colonels, and told them he would call a parliament as soon as peace was

restored; and moreover promised every thing, his subjects could desire in regard to their liberties and religion. He then made this remarkable concession to them as individuals, that, if any among them were not free and willing to serve him, he gave them leave to surrender their commissions, and go where they pleased; that he believed them men of too much honour to imitate Lord Cornbury, but was willing to spare them if they desired it, *the discredit of so base a desertion.*

There was here something surely that partook even of greatness, and one would have thought, must have had a corresponding effect upon men of honour, if such they were.

"Accordingly, they all," continues the king, (for from his memoirs this extract is compiled) "seemed to be moved at the discourse, and vowed they would serve him *to the last drop of their blood.*" The Duke of Grafton and my Lord Churchill were the first that made this attestation; "and the first," adds the compiler of the Life of James, "who, to their eternal infamy broke it afterwards, as well as Kirke and Trelawney, who were no less lavish of their promises." So much for the honour of these patriots; which, however, as it is not the object of our strictures to criticise, we pass for the present, to attend the march of events.*

* At the same time it may not be amiss to remember the letter of Churchill, who, if the military glory of his after life had not gilded over this early baseness, would have been only known in history as a villain. I mean the letter to William, in which, while he was thus

A petition was now got up by Lord Clarendon (who had been in such despair at his son's dishonest conduct,) in conjunction with several prelates, to call a free parliament, and spare the effusion of blood, that is, to treat with the Prince of Orange. The parliament was promised, but not till the invasion had been repressed; in which who shall say the king was wrong? He afterwards set out for the army meaning to oppose William, but was prevented from advancing by an attack of bleeding at the nose so violent that he was utterly incapacitated from acting. This he says was providential, for he was afterwards informed that Churchill, Kirke, Trelawney, and others, who had been foremost as we saw in swearing fidelity to him to the last drop of their blood, meant to have seized and delivered him to William, or something worse.

The fact is contested; but no arguments other than opinions are alleged against the belief of it which is asserted. Coxe, the biographer of Marlborough, merely *disdains* it, but I agree in a pungent remark: "That he should have remembered that his hero

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continuing the trusted servant and friend of James, he devoted himself and his honour, as he called it, to the service of the Prince. This and the other infamies of Cornbury, Grafton, and many others, make the heart sick to think how ignoble were the means which produced so noble an end. Like Falstaff, we may say, "If I be not ashamed of my soldiers, I am a souced gurnet."

was the last person in whose case a charge of perfidy and meanness could be treated with contempt."*

We have said that it is not our purpose to investigate the military conduct of James or his more faithful adherents in the steps they took to oppose the advance of William. With so much rottenness and treachery in those he most trusted, much greater faults might be excused, if excuse was the object of these strictures. But my question is only as to the true character of the Revolution, and whether in the revolt of many commanding officers, in the imbecility of others who remained faithful; in the general fidelity of the private soldiers, or in the apathy of the greatest part of the gentry and common people not in arms, we descry, even afar off, the traces of that august and heart-stirring spectacle which the history supposes; that of a great nation unanimously resolving to assert the great first principles of freedom, and to relieve themselves by a universal effort to resist and punish a tyrant. If, instead of this, we find that success was chiefly owing to dishonour and hypocrisy in the means, and that even the end was as much to gratify private views of self-interest as the nation's welfare, as philosophers, freemen, and lovers of our country's fame, we may be bitterly disappointed.

* ii. 217. We shall presently come to the investigation of this very interesting question, and a more atrocious charge belonging to it.

We have already seen how little the effort was what the French called a rising "en masse." The people (*as such*) were not considered; of the 32,000 men who composed the royal army, the king, though he had lost a large proportion of officers, was abandoned by only a few hundred privates, and that "the prince had received no efficient accession." It was to the weakness, therefore, and personal dismay of James, (dismay at being deserted by his best friends, and even his children,) not to the vigour of the nation, that the progress of William towards the capital was chiefly owing. The desertion of Prince George (called in derision by the king "Est il possible") was intrinsically of no consequence, and James was but right in saying that the loss of a good trooper would have been more severely felt. On this immaculate patriot there is this observation, that "he affords one of many proofs that the meanest faculties suffice to practise knavery with success." One of his flimsy reasons, stated in his letter to James for abandoning him, was his alliance with Louis XIV. He forgot, says the historian, that his own brother, the king of Denmark, was at that moment also the ally of France.

But the defection of Anne was a severer blow, and prompted that pathetic exclamation from James, "God help me, my own children have forsaken me!"

He had, indeed, ever been to her, as well as her sister, *who also was cognizant of, and approved the*

enterprize to dethrone their father, the kindest of parents.

But patriotism and love of liberty have been said to be paramount virtues; and they are so. How far, in the present case, they were mixed up with mere personal ambition in the Princess of Orange, who was to be a queen, or an intolerant zeal for her religion in a mere bigot like Anne, may be made a question. In regard to the last, "she was taught to look upon the Church as grievously ill-used in being deprived of the pleasure of crushing and worrying papists and dissenters." She also believed that her father had been base enough to impose a spurious heir upon the kingdom, and, of course, so far to lessen her own contingent expectations of the throne. Are we wrong then in venturing to believe, that the purity of patriotism in these two princesses might be somewhat doubtful?

The real characters of the other leading patriots who brought about the Revolution, we shall hereafter have occasion to discuss; meantime, it is really curious, in pursuing the narrative, to observe how these Whig benefactors are handled by their Whig historian.

Lord Bath, governor of Plymouth, having declared for the prince, he says, "this lord had been some time waiting to ascertain the stronger side: and added another example of intrigue and ingratitude."

The Duke of Ormond, Lord Drumlanrig, and Sir George Hewet, having attended Prince George

in his flight to William, he was accompanied by others of meaner rank, *but not of meaner principles.* The duke figured in the gazette as volunteering to raise troops against the invasion, while he was deep in the intrigues of the prince for corrupting the faith, not only of the army, but of the fleet. Drumlanrig was also a young man, and "it is not easy to reconcile with the frankness of youth the treachery with which these noblemen abused, up to the last moment, the favour, confidence, and hospitality of the unfortunate king."

This is at least strange in the eulogist of the Revolution; but he makes it the channel of, to himself, a more gratifying eulogy on former exertions of liberty; for he adds, "But the vigour and virtue of the English nation and character had dwindled from the restoration of the Stuarts. A degenerate race succeeded the men of the Commonwealth. The aristocracy seem to have been born without that sense which is supposed to be their peculiar distinction, — the sense of honour." *

Such then is the opinion of, at least, one great champion of the Revolution, as to the virtue of many of its most active partisans. We have seen the character of Lord Cornbury; let us add to it that of his father Lord Clarendon, an influential leader.

"He was a person of mean understanding, and still meaner conduct. After invoking God in his

ii. 224.

despair upon the calamity of beholding his son a rebel*, he wrote to the Princess Anne, *complimenting* her upon her desertion. Finding that neither he, nor his brother Rochester, were likely to be appointed to treat on behalf of James with the prince, he indulged in pedant wisdom and ungenerous reproaches against the fallen king; deserted the next day to the prince; was received without confidence or respect; had the baseness to suggest that James should be sent to the Tower; continued to be neglected, or despised by William; and ended in making professions of conscience, loyalty, and Jacobitism." †

This was no more than what Marlborough did afterwards. These benefactors to their country, and champions of its civil rights, were certainly not of Roman breed!

Was Halifax, the polished, the eloquent, the witty, the vigorous, the highly cultivated, the philosophic, the active, one jot better than they? No! According to our historian, his reputation needs all the indulgence that can be derived from the *universal* degeneracy. Less daring than his uncle Shaftesbury, less corrupt than Sunderland, he was their equal in the versatility of intrigue.

Why does he say he was less corrupt than Sunderland, though that infamous man, while he contributed perhaps most to the Revolution, was the pattern

* This appears in Clarendon's own diary.

† He was detected in the plot to restore James, might have been put to death, and was exiled to his country house.

and father of all corruption? Halifax was appointed commissioner by the king to treat with the prince, and no sooner was so, than he betrayed him. He opened himself to the confidential agent of William, and agreed to support all his measures.

It is worth while to consider how the real designs of the Deliverer had now begun to be unfolded. The mask was dropt between this agent and the noble commissioners. The pretence of a free parliament, the chief reason urged for the invasion, by William in his declaration, was thrown aside. The agent avowed that *new foundations and a total change* of persons were to be adopted; for which purpose, it was urged in print and conversation that the king would not adhere to his engagements, and that it would be the greatest folly to *graft any thing on the old stock.* Far from opposing this, the virtuous Halifax assured the agent who had told him that his acceptance of his commission would subject him to unhappy suspicions, on the part of the prince, that he would act in such a manner as not to incur his censure.*

Is not this patriotism a fine thing, when it can gild over such conduct, place such a man in the first ranks of history, and inscribe him among the foremost of those whom we look upon as the fathers of our liberties? Let it be remembered that, as is supposed from fear, Halifax declined to inroll himself among those who invited William to appear in arms; and that

* ii. 234., where all the authorities are cited.

from this, and other instances of interested inconsistency, he obtained the inglorious epithet of *Trimmer*. But to return to the narrative.

Defection, from the imbecility of James, was now at its height. The prince had advanced to Hungerford, where the commissioners from the king were appointed to meet him. There were joined to Halifax, Nottingham and Godolphin; of whom the latter had the dexterity or dishonesty to possess at the same time the confidence both of James and William. Upon their arrival the prince would not see them, but referred them to commissioners of his own. Among these (*mirabile dictu*) was the very Lord Clarendon whose loyalty we have been describing. But this seems to have been to mark his (William's) contempt both of Clarendon and Halifax, who were known enemies. In truth, the negociation on the prince's part was a mockery. He wanted nothing so much as delay, for he now wanted the crown, which he could not obtain by any negociation. His engines had for some days been at work for it, and his means, adds the historian, were unworthy his character.

A spurious manifesto, called a *third* declaration of the prince, was published. It did not, as is said, proceed from the prince himself, but it was found too useful to be contradicted; for it proclaimed that all papists who had arms in their houses, or were in office, should be treated as robbers, freebooters, and banditti, refused quarter, and delivered to summary execution. It set forth that the papists were

in arms to destroy London by fire, and massacre the protestants; called upon the magistrates to secure them, who, if they disobeyed were themselves, to be treated criminally.

All this was believed; copies sent to the lord mayor and the king, who, with his courtiers, were panic-struck, and, in fact, through a lie, did much service. Was this the high-minded spirit of a generous, lawful, and general insurrection? Did so pure a cause require the aid of false witnesses? The Declaration was afterwards, indeed, denied by William; but not only the advantage of it was pocketed, upon the king of Prussia's principle, that a lie sometimes does good for four-and-twenty hours, but Speke, who claimed to be the forger, declared, after William's death, that he showed it to him, and that he approved. His disavowal of it was, at least, only verbal, and confined to those about him; and his historian himself winds up with these remarkable passages "The prince had already the reputation of being not only a phlegmatic, but an *unscrupulous* politician. His policy was charged by some with tolerating, by others with sharing, the practices which stimulated the populace of the Hague, to massacre the patriot brothers, De Witt, and give him undivided sway over the republic. The profit he made of this impudent and atrocious fabrication leaves an additional stain upon his character." *

* Hist. Revol. ii. 235.

What can we say to this, but to ask in surprise, if this can be the opinion formed by our great historian of liberty, of liberty's greatest champion, our glorious deliverer?

It is a grief to add what is stated of Lord Dartmouth—surely a man of loyalty and honour, though, as it should appear, more weak and hesitating than we wish to consider him. He had orders from James, who had sent his son to Portsmouth to have him conveyed in a yacht to France. At first he promised to obey, and then retracted: his excuse was the strictness of the law against it*, and the bad consequences in his mind of the measure. This we should not notice to his disadvantage; but in Dalrymple there is a letter from the prince to him, taken by Byng, urging him to join him, and offering him, if he did, to *continue* him in the command, with an assurance that Herbert should not be advanced over his head. "This letter," says Byng, "had some effect upon him. From that time, he seemed *inclinable* to the prince's party." The letter was laid privately on his toilet, by his own captain, and he never instituted any inquiry upon it, though an affront which few men of honour but must have resented, being a direct temptation to desert.

I am far in this from saying that there is the least proof of even intended treason in Dartmouth; nor do I blame the prince for tempting him; but in such a

* Query, what law?

system of bribery which do we recognise: the voluntary rising of the nation against invaded rights, or the ambition, from personal interest of one prince, to usurp the throne of another? Had Dartmouth accepted the offer, and joined the prince, would it have been from public virtue?

Defection, or distrust, having now become universal, James resolved, and attempted, to quit the kingdom. This was precisely what the prince most wanted: it was what was most conducive to his own undisguised object — the crown of his father-in-law.

It is not to our purpose to inquire by whose advice he was in this chiefly influenced: it was said by that of Halifax and Godolphin, his own commissioners, who, knowing that it played the game into William's hands, the Continuator of Mackintosh observes upon it as "one of the *meanest* and most *characteristic intrigues* of the Revolution." *

Mean intrigue, then, is the characteristic of the Revolution! What must have been its glory? What the triumph of the sovereign people?

Godolphin's share in the advice is not questionable; but the baseness of Halifax almost exceeds belief. Burnet says that that lord, *while transacting his commission* (proh pudor!) asked him if they had a mind to have the king in their hands; that he answered no; that Halifax then asked, what if he (the king)

* Hist. Revol. ii. 240.

had a mind to go away? Burnet answered, nothing they so much wished. This he told the prince, who approved both answers.*

Upon this, Halifax wrote to the king, informing him of a design upon his life, which made him resolve to withdraw; and James himself says, that if he did not go, the prince would, probably, find *other means* to send him out of it (the kingdom) and the world too." †

On the morning after his departure, which had been concealed, his antechamber was crowded with lords and gentlemen, who rushed in to attend his levee. He was gone, and had addressed a letter to Lord Faversham, thanking the army under him for their services, and desiring them "not to expose themselves (for his sake) to a foreign enemy and poisoned nation." This letter was read at the head of 4000 men at Uxbridge, many of whom, it was said, shed tears. These circumstances do not bespeak the unanimous hatred of a nation to a tyrant, still less its desire to sit in judgment upon him. It is true that upon his flight being known, the rabble of London rose in their character of robbers, and committed great excesses; but it was chiefly for the sake of plunder, not of promoting their political rights.

It is not incurious to observe the spirit shown at this time. "There was, even in the capital, no

* Burnet.

† Memoir in Life, ii. 249; cited by M. ii. 242.

public spirit, no democracy, no people, no magistracy, worthy or conscious of its mission. All power was divided between the aristocracy and the rabble. When, upon the king's flight, the populace began the work of plunder and devastation, the citizens and their magistrates were alike supine." *

Here, again, we are at a loss to discover the great injured nation, acting upon first principles, and the inalienable rights of resistance. So little so, that there being no concert, nothing organised, the city might have been fired and pillaged by ruffians, had not the lords spiritual and temporal, at least those who happened to be in town (many of them, probably, who had recently so crowded the king's antechamber, to pay their duty to him, thinking him there), proceeded, in their individual capacity (for they had no collective one), to confer with the lord mayor and magistracy of London with a view to preserve order. Finding the magistrates (though we must suppose them to have been so alive to *the rights of a reformatory revolt*) utterly incompetent to act, these lords took upon them the temporary government, and, being obeyed, preserved things, for a time, from destruction.

There was nothing to blame in this: it was rather matter of praise. There was great confusion the house was on fire; the owner had fled; and whoever had influence enough to command, and be

* ii. 250.

obeyed in restoring order, though he had broken a thousand laws — such is the privilege of necessity — only did right.

It was well the lords acted thus; for though, as to legal power, they were only so many private gentlemen, they had influence from their names, and obtained obedience from good will, when the law could do nothing.

They assumed the whole government for a time, like a provisional committee of safety, and were luckily obeyed by the city, the army, and the fleet. They took the command of the Tower by stratagem from the king's governor Skelton, and issued warrants to apprehend all popish priests and Jesuits in London; a still stronger proof of the rights of necessity. More than this, they issued their famous Declaration, imputing the king's flight to popish counsels, which was a falsehood, because it arose from the fears *purposely* instilled into him by Halifax and Godolphin, in league with the prince, though trusted by James.

In consequence of this, they resolved to "*resort*" to the prince; and the corporation of London joined them in an invitation to him to vouchsafe to repair to the city. This, Burnet, the partisan bishop, has the effrontery to represent as an invitation in form, to assume the government, and it was so believed by the prince, who had already assumed the style of a sovereign, issuing orders, disputing those of the king, and dating them from *his court* at Henley, from which he moved, with all royalty, to Windsor.

Here the later historian of the Revolution breaks out into a most unwarrantable abuse, not only of James, but of kings in general.

"James," says he, "like all tyrants, and *most kings*, considered the nation as made for his use."

Indeed! Most kings! Did Agis, or Agesilaus, or Codrus, did Numa, or Trojan, or Antoninus, did Alfred, or Robert Bruce, or Henry IV. of France, did our own princes of the present family think nations made for their use? I believe William did; for, with all his zeal for our liberties, it is clear, even in his historian's own opinion, that the great and deciding cause of his invasion was, under false pretences, to obtain the throne of England.

There is another inculpation which an enlightened lawyer, versed in the law of nations, surely could not mean to be serious. It implies, that when a person, whether king or otherwise, is attacked in war, he is not to consider himself at war, and avail himself of his means of defence. Or does he mean, that being civil war between the people and a king, the latter is not to be considered as a legitimate belligerent?

"James," this historian goes on to say, "*therefore* (that is, because he so thought) did not scruple to leave his people in *a state of anarchy*, with the *selfish* purpose of *embarrassing* his *rival*, and deriving advantage from public confusion." *

* Mackintosh, vol. ii. 253.

I do own this passage filled me with astonishment. Selfish purpose! What! is it selfish to resist an assailant? Anarchy! Who caused it? *Embarrassing* his rival! was he then to facilitate his enterprise? Derive advantage from confusion? Are we not to confound an enemy? One would suppose that this historian thought it was the bounden duty of James to fall at the feet of the man who came to rob him.

In the same spirit, having cancelled the writs for the new parliament, and taken away the Great Seal, he says that "he, (the king), vainly imagined that there was some inherent power, not only in his person, but the mere symbol of his will. Kings seldom reflect that their great seals are but so much wax, and their persons but ciphers, when they are no longer supported by the will of the nation or by hireling force." *

This is only worthy of a mere declaimer against kings, endeavouring to excite a mob. To you I need not say how easy it is for demagogues to rail; and, were it worth while to dissect this fine passage, should we be able to discover that it was even sound? Could James have embarrassed his enemy, he had a right to do so; and if we ask calmly for the proof of the other imputation as to the inherent power which he supposed to reside in his person, where is it to be found but in the heated fancy of the writer? As to

* Mackintosh, vol. ii. 266.

the last part of the assertion, that kings and seals are but ciphers and wax, without the support of their people, or a hireling force, it is as certainly true that a vicious rebellion may succeed, as well as the most holy insurrection. What then does this fine declamation end in but the right of the strongest? The remark was gratuitous.

To come coolly to particulars, the question is, as I have stated, who caused the anarchy? Not James! Attacked and betrayed in the midst of peace, and declarations of duty; attacked by his *innocent* invader, nephew, and son-in-law;

> "Deserted in his utmost need,
> By those his former bounty fed;"

informed by his own minister that his life was threatened, without refuge, without power, what could he do but fly?

Of all the accusations brought against him, well or ill-founded, this last, as it is the most unexpected, so it is least proved or provoked. As a king and as a man, there are faults enough proveable against James, who was no more than justly opposed in his endeavour to subvert the laws; but this attempt to aggravate his sins against the nation, for using his own rights of self-defence, partakes of the spirit of the times and of contemporaneous partisans, rather than the able and impartial judge at the distance of a century and a half.

But to return. In the meeting of the lords at

Guildhall, not above thirty in number, and in the voluntary obedience paid to them, we find a full exemplification of the case of necessity.

Hitherto the acts of the prince had been purely military, and if he had been obeyed or joined, it was as Monmouth had been obeyed and joined, his followers running the risk of what might be to come, the sovereign power being still in the hands of the king.

But the king having abandoned the helm, and the ship without compass, in very necessity the assembled peers took upon themselves, not so much to command as to suggest, what seemed vital measures for the safety of the vessel. In this they did no more than any passenger might have done in the same circumstances, provided the crew had good opinion enough of him to obey him. These lords addressed the prince; so did the city; so did the lieutenancy; and it will be critical to canvass what it was they communicated. Did they broach the opinions of our two great enlightened authorities, Price and Mackintosh? were they even in circumstances to call, or believe, themselves the nation? I should say not.

Echard says, that of the lords "who were *in and about town* (a sort of *chance* assembly themselves) there were only about thirty, including seven bishops. The names of all are given; none of them violent opposers of James, still less upholders of Revolutionary doctrines; many, the direct reverse. The Archbishop (Sancroft), the Bishop of Ely,

(Turner) the Lords Mulgrave, Rochester, North and Grey, might even be denominated Jacobites. These never could intend, in addressing the prince, to protect the state in its unlooked-for emergency, to alter the whole frame of government, *cashier* the king, and elect a stranger,—whether William, *Jeffries*, or *Kirk*,—in his stead. Burnet, indeed, as we have said, has the impudence, or bad faith, to call the addresses above mentioned an *offer of the government* to the Prince of Orange. Let the addresses speak for themselves.

After professing their regard for the protestant religion, and their *reasonable* hope "that, the king having issued his writs for a free parliament, they might have rested secure under the expectation of that meeting, the lords add, "But his majesty having withdrawn himself, and, as we apprehend, in order to his departure out of this kingdom, by the pernicious counsels of persons ill affected to our nation and religion, we cannot, without being wanting to our duty, be silent under these calamities, wherein the popish counsels which so long prevailed, have miserably involved these realms.

We do therefore unanimously resolve *to apply ourselves* to his highness the Prince of Orange who with so great kindness, to these kingdoms such vast expenses, and so much hazard to his own person, has undertaken, *by endeavouring to procure a free parliament*, to rescue us with as little effusion as possible of christian blood from the imminent danger of popery and slavery."

"And we do hereby declare that we will with our utmost endeavours,"—(do what? cashier James, and place the crown on William's head? No!)—*assist* his highness in the obtaining such a parliament with all speed."*

The addresses of the city, and of the lieutenancy of London, are equally worthy of notice.

The former, after complimenting the prince on all he had done for the protestant religion, and thanking him for appearing in arms to rescue the country from popery and slavery, observes that they had hitherto looked for remedy from his *majesty's concessions* and *concurrences* with the prince's just and pious purposes expressed in his gracious Declaration. †

If so, then had the king not withdrawn, but gone on with his concessions and concurrences, it was clear that they thought all wounds would have been healed. At any rate there was no thought of setting up their undeniable right of calling kings to account and dethroning them for misgovernment.

What, then, prompts them to apply to the prince? Not the continuation of the tyranny of James, but his leaving them without remedy, by withdrawing from the exercise of his power. Herein, being finally disappointed (not by the continuation of the tyranny, but the desertion of the king) "we presume," they say, "to make your highness *our refuge*," and they

* Echard, iii. 931. † Ibid. 931.

accordingly, invite him (to assume the crown? No!) to repair to the city, where he will be received with joy and satisfaction.

No doubt of it, when the government seemed broke up, and there was no other refuge at hand.

It is remarkable that the address of the lieutenancy was infinitely more pointed, and spoke more decidedly than either that of the thirty lords or the city magistrates. They are concerned, they say, that they had not before an opportunity of testifying their resolution to venture *all* to attain the glorious ends which the prince had proposed for settling these destracted nations.

What the prince had proposed to the world, (I speak not of himself) is only to be found in his Declaration; a free parliament, and an inquiry into the birth of the Prince of Wales. In all the three addresses was there any thing of bringing the king to trial to answer for his misgovernment, through the means of the prince, or was any reason assigned for inviting him to the city, but its having been abandoned by the king?

What now, then, becomes of Burnet's silly, or wicked, misrepresentation, that these addresses were an offer of the government to the prince? The lords talk of *assisting* him. That a man should *assist* another to assist himself to obtain his own object, is indeed a remarkable phrase; but it is any thing but an offer to place himself in subjection to him. I do not deny that these thirty lords, who

happened to be "in and about town" were looked up to by the deserted people in their vicinity as authorities whom, for the sake of their safeties, they for a time obeyed; and that by their conduct they deserved well. Neither do I question that in these addresses the intention was to propose *pro tempore*, and *until the desired free parliament should meet* and provide for the exigency of the *deserted* government, that the addressers wished William to exercise a provisional power, in the same manner as they had done themselves. But that they intended to overthrow the dynasty of James, or deny that he was still their sovereign, still more that they could ever pledge the nation, or claim to represent its resolves to this effect, no whiggery that then existed ever supposed or asserted. That such was the opinion whether at Guildhall where these lords assembled, or in the great majority of the nation, is contradicted by the protracted and stormy debates of the Convention itself, where the still existing sovereignty of James, and his right to the throne, under whatever modifications, were asserted, defended, and contested by those who were personally most opposed to him, and were active in calling in and siding with the prince as their ally and deliverer. We are not, therefore, even yet near that great revolutionary doctrine, supposed to have been so incontestably established by these wonderful events.

But what shall we say to the intentions and temper against the king, supposed to be so clearly manifested

by the mass of the nation, when we consider the reaction which, from an unforeseen (and to William unwelcome) accident, took place almost immediately after the addresses had been dispatched.

The story of the arrest of the king at Feversham, in his endeavour to escape to France, is known. The incident, which might have terminated his life, ended in a momentary triumph. Having escaped the mob, he was persuaded by Lord Winchelsea, the Lord Lieutenant to return to London. The consequence of this I cannot relate better than in the words of old Echard.

"This strange adventure had various effects upon the Prince of Orange and the city of London. The former seems to have desired that the king should not have been stopt nor brought back, and the latter appeared filled with a joyful surprise; most people there being glad of an opportunity to convince the king, *that there was never any ill design against his person.* As for the peers and privy council, they were likewise variously affected by this news, *more especially by reason of the advance they had made to the Prince of Orange.* However, after some debates, they appointed four of their members, namely, the Earls of Middleton, Ailesbury, Yarmouth, and Feversham to wait upon his Majesty, and to invite him to his palace at Whitehall; to which, though at first he showed some reluctance, yet at last he condescended.

"The peers also dispatched an express to the Prince of Orange, to acquaint him that the king was still

in England; at which time his highness came to Windsor, and lodged in the prince of Denmark's apartment, which was prepared and made ready for his reception.

"As his highness was much surprised, so it is easy to believe that he was not very well pleased to meet with new obstructions when his affairs necessarily called him to London.

"Therefore, after a long consultation with the chief of the nobility and gentry about him, he dispatched Monsieur Zuylestein to the king to desire him to continue at Rochester; but this express missing his way, his majesty left that place on Sunday morning, the 16th of December, and about four in the afternoon entered the city of London, as it were in triumph, and went to Whitehall, attended by several noblemen and a great number of guards, while multitudes of people that crowded to see him welcomed his return with their loud acclamations; and the night concluded with the ringing of bells, illuminations, bonfires, and other such like demonstrations of joy and satisfaction."*

In all this we look in vain for the acts of a resentful nation, conscious of their strength, and resolved to use it for the punishment of a delinquent king. Yet, though thus received, what might still be his fate from the arms of his invading rival may be questionable. Probably, deprived as he was of all

* Echard, iii. 931.

military aids, he would have been conquered in the field; but so much was he encouraged by this apparent return to loyalty in his subjects, that he thought his power had revived, and he not only summoned a privy council, but it was well attended, and an important order, which he immediately made, was signed by several members, among them the Duke of Hamilton, who soon after, without any new act of aggression on his part, took the lead against him in Scotland, and joined in the memorable vote of that country, that he had forfeited the throne. A more important person in regard to Whiggery set his name also to this order; the great patriot Godolphin, whose Janus face looked quite as much towards William, though he here acknowledged James to be still his master. It was also signed by Trevor, master of the rolls, and by Titus; the last any thing but a tool of tyranny.*

The reflection of Mackintosh's Continuator upon this incident is worth commemorating. "Reigning princes," he says, "are not selected for their virtues, or selected at all. James II. was really one of the less despicable princes of his time; and the mass of the people in all countries were as low in the scale of reason and knowledge as their sovereign."† Our revolutionary ancestors are at least obliged to him.

He goes on to review the effects of the king's

* Echard, iii. 931. The other signers were Lords Craven, Berkeley, Middleton, and Preston.

† Vol. iii.

return on the prince's court at Windsor. It startled, he says, these enemies of James. The prince, astonished at the sudden change, and alarmed by *the inconstant genius of the English people*, desired the advice of his principal friends. Clarendon, taking conquest for granted, advised the Tower, and, as Sheffield writes, hinted at something *farther*. The prince preferred holding the king to his avowed purpose of withdrawing. "*It was thought necessary*," says Burnet, "*to stick to the point of the king's deserting* his people; *and not to give up that by entering into a treaty with him.*" In other words, adds Sir James, to dethrone him for that, as a voluntary act, inspired by popish counsellors.

So then, after all, it is confessed, *that James dethroned himself*, not the sovereign injured people; and the whole glittering precedent of the inalienable right of resisting tyrannical sovereigns has crumbled to nothing. This was, in fact, the policy finally pursued. The flight of James was critical upon the question, for it produced the vote of abdication, by which the throne was vacant; "so that," as Echard observes, "the people fell into their original right (of cashiering? No!) of *filling* the vacancy. Thus the Prince of Orange," adds he, "succeeded unspotted by any parricide." *

But the Continuator cannot restrain his indignation at this. James II., he says, "by assuming a

* Echard, vol. iii. 941.

power above the laws, *assuredly* incurred the penalty of forfeiture of the throne. But he should have been unhinged by an *ingenuous*, *just*, and *national* proceeding upon principles worthy of a nation exercising the most sacred of its rights, and not upon *false pretences*, and *perfidious arts*."*

The Revolution then, according to this gentleman, was not an *ingenuous*, *just*, and *national* proceeding, but brought about by *false pretences* and perfidious arts.

I think here is enough (added to what has preceded) to show that in the opinion of those themselves whom we oppose, our Glorious Revolution was a very inglorious thing, or, at least, not quite so glorious, or cogent, in the support of the doctrines erected upon it by modern Whigs, as we in general consider it. The task, however, will be only better performed if we attend upon the march of its history a little farther.

In compliance with the scheme avowed by Burnet, to get James out of the way, without the further trouble of considering certain grand first principles of the sovereignty of the people, which were not then so perfectly understood as by our more enlightened modern instructors, every artifice of terror, treachery, and chicanery, was put in practice against the weak and infatuated king. The Dutch guards were sent in the night without notice to take possession of Whitehall and dispossess those of England. The stout old Earl Craven, who commanded the last, would

* Hist. Rev. ii. 263.

have fought them; but the king, to spare bloodshed, prevented him, and went to bed, but was roused from his sleep by an order from the prince, borne by the Lords Halifax, Shrewsbury, and Delamere, to give up his palace and retire the next morning to Ham. The Continuator of Mackintosh calls this a *black* transaction on the part of the three noblemen concerned: I cannot conceive why, at least upon his own principles; for if James had given his subjects a right of war, so that he might have been tried and sentenced even upon mere notoriety of acts*, he might have been killed in the field, or judged to death by his subjects. How, then, was it a black transaction to wake him at night, with an order to retire from London? But what shall we say to the conduct of Halifax?

He is more correct in what he says of the conduct of Halifax, which, he observes, was indescribably base. Having, as commissioner of the king, secretly betrayed his trust, he now, adding open shame to hidden perfidy, came back to the king, commissioner or *something worse* from the prince.†

It is stated that William could not help smiling—he who smiled so rarely—at the willingness with which

* Vide supra.

† Sheffield Duke of Buckingham's Account of the Revolution. Apud Continuation of Mackintosh, vol. ii. It is difficult to separate truth from opinions in a conflict of parties, even when it did not produce civil war. Here the war was raging, and we must attach much to this insinuation of Sheffield, though one of the honestest of the grandees, as times went.

Lord Halifax consented to play so mean a part. He was nominated, it appears, by the prince, as "an easy trial" of his new faith, and as an expiation of his refusal to join those who invited the Deliverer. Perhaps, continues Sir James's Editor, William had already resolved to employ him, and thought the dishonoured peer would be so much the more useful a minister.*

William was now in London; his entry triumphant, and the behaviour of his new sovereigns, the people, instructive. St. James's Palace was thronged to do him homage, as Whitehall had been thronged *the day before* to do homage to James. He rather avoided, than courted, the shouts of the populace, disgusted perhaps with their versatility: but he had equal reason to be disgusted with the mob of the court. Upon the departure of the king, Whitehall again became a desert. Those who had *flocked* to him upon his reappearance, rushed now to St. James's to make their eager court to William, exemplifying in this little of the supposed august scene of a nation resuming its suspended rights, but very much the correct estimation made of the multitude:—"An habitation giddy and unsure hath he that buildeth on the vulgar heart, O, thou fond many!"

Meanwhile, though the self-exiled king was at Rochester in his way to voluntary banishment, he was pressed by all his protestant friends still to stay, and to summon a parliament, assuring him that there was

* Sheffield Duke of Buckingham's Account of the Revolution. Apud. M.

a great turn in the minds of the city, and of the *English army*, and that pity and compassion for him then generally prevailed; what is more, Echard adds*, that it *was in a great measure true.* If so, what again are we to say of the universal feeling, the universal resolution, to dethrone him?

Could the advice have prevailed, there can be little doubt as to the event, and the Tower, probably, would have been the palace to which James would have been consigned. But if the reaction was a fact, which the Editor of Mackintosh himself seems to admit, are we far wrong in thinking this imprisonment would have proceeded more from the efforts of the Dutch guards, than the wishes or the energies of the great English people?

In his then situation James did wiser in rejecting the advice, and proceeding to France, leaving free scope to all that collision of high but discordant principles, theories, and discussions which followed, and which, though nothing new to you, but, on the contrary, long since settled in your excellent judgment, I cannot help asking you, as a proper close to these strictures, to examine.

Previous to this, however, it may not be amiss, nay, it is only justice to James, to take a glance at his famous letter from Rochester, containing his reasons for quitting the kingdom, and in so far affording an answer to the argument afterwards raised upon it, that he had made a voluntary renunciation of the throne. If his retreat was occasioned by treachery,

* Vol. iii. 840.

force, threat, or stratagem, it was evidently not voluntary, and we are but right in saying that this *national* proceeding was founded on "false pretences and perfidious arts."

"The world," says the king, "cannot wonder at my withdrawing myself now this second time. I might have expected somewhat better usage, after what I writ to the Prince of Orange by my Lord Feversham, and the instructions I gave him; but instead of an answer such as I might have hoped for, what was I to expect, after the usage I received, by making the said earl a prisoner against the practice and law of nations; the sending his own guards at eleven at night, to take possession of the posts at Whitehall, without advertising me in the least manner of it; the sending to me at one o'clock, after midnight, when I was in bed, a kind of an order, by three lords, to be gone out of my own palace before twelve that same morning?

"After all this, how could I hope to be safe, so long as I was in the power of one who had not only done this to me, and invaded my kingdoms without any just occasion given him for it, but that did, by his first declaration, lay the greatest aspersion upon me that malice could invent, in that clause of it which concerns my son? I appeal to all that know me, nay, even to himself, that, in their consciences, neither he nor they can believe me in the least capable of so unnatural a villany, nor of so little common sense, as to be imposed on in a thing of such a nature as that.

"What had I, then, to expect from one who, by all arts, hath taken such pains to make me appear as black as hell to my own people as well as to all the world besides?

"What effect that hath had at home, all mankind have seen by so general a defection in my army, as well as in the nation, amongst all sorts of people.

"I was born free, and desire to continue so; and though I have ventured my life very frankly on several occasions, for the good and honour of my country, and am as free to do it again (and which I hope I yet shall do, as old as I am, to redeem it from the slavery it is like to fall under), yet I think it not convenient to expose myself to be so secured as not to be at liberty to effect it; and for that reason do withdraw, *but so as to be within call whenever the nation's eyes shall be opened, so as to see how they have been abused and imposed upon by the specious pretences of religion and property.*"

Such is this famous letter; and whoever now reads it, now that the prejudices, the fears, and the excitement of the times which produced it are over, will not refuse, I think, to admit that, however we may rejoice in the *effects* of the throne's being voted vacant by a voluntary abdication, the vote itself was founded upon anything but truth.

Burnet says the facts the letter complains of were aggravated or misrepresented. In what were they so? Was not Lord Feversham imprisoned contrary to all law of nations? Would William have dared to have

done so by any messenger from Turenne or Luxemburg? Were not the Dutch guards sent without notice to surprise James at night? Was he not *forced* from Whitehall? Could he have thought himself safe? Could William have himself believed, though he pretended to do so for the better carrying on his own ends, that the birth of the Prince of Wales was a wicked imposture? If he did, why did he send an express embassy to congratulate James upon it? Anne believed it for a time; but Anne was a weak bigot (though a Protestant), as great as her father was a Catholic. The letter to William formerly cited*, admonishes him that he would lose ground by not supporting the lie, and he did support it. Was this the magnanimous deliverer, or a political trickster? In this point, at least, James will bear a comparison. He might be arbitrary, he might be a tyrant, but he was a man of honour. William landed with a lie in his mouth, and chiefly by means of that lie became king.

It is hence, I think, that what James so emphatically complains of was true. He could expect no safety from those who, knowing it to be false, endeavoured to make him appear to his subjects "as black as hell."

Do I in this defend the *cause* of James? No! but not the less do I blame our *supposed* high-minded and clear-sighted ancestors. Not the less do I re-

* Supra.

pudiate being one of those wiseacres who halloo one another into the thought that James was a monster, William a disinterested deliverer, and those who acted with him patterns of wisdom and public virtue.

With all my cautions in admitting, and still more in exercising, the right of resistance, I am free to say that the vote of the Scotch convention, that James "had *forefaulted* his right to the throne," was infinitely more consistent, and more worthy of the principles of liberty which have been contended for by the jurists we have been reviewing, than the jesuitical niceties and scholastic pedantry on which the palladium of our happy constitution was, at last, actually founded.

The steps by which this was produced were of a piece with the production itself. Every thing was marred and incrusted with such irregularities, such unfounded assumptions, such semblances of reality where no reality was, that the mind seems bewildered in pursuing them. We follow them with difficulty, and part from them without satisfaction. *Decies repetita* non *placebit.*

The prince and his followers had every thing in their power. There was not a possibility of resistance to any thing they might propose. As they had gained all, so they might have modelled all by successful force. The laws were mute; all rights at the foot of the conqueror (for conqueror he was), and as such implied to be, even by such Whig lawyers as Pollexfen and Holt, who, however blamed, no more

than consistently (I do not say wisely) advised William to assume the crown as Henry VII. had done before him. I repeat, this would not, perhaps, have been wise; but if an easy and early settlement of a distracted state betokened practical wisdom in our earlier ancestors, it is not clear that it would have been the contrary on this occasion; as, on the other hand, it would have saved us the examination of a thousand failures and bewildering derogations from reasoning and regularity, which marked the whole progress of our sage politicians, from the commencement of their sayings and doings to their final and lucky settlement.

Had this been done, in what would it have been different from the origin of many other states, governments, or usurped powers, now consecrated by time?

But though this would have been more consistent and intelligible than what was afterwards done, it could not have been without the acknowledgment of the bold right of force which our learned ancestors wished (I by no means say improperly) to evade. They resolved, therefore, to do every thing they wanted, yet pursue, as much as possible, old forms and a beaten track. Hence the incumbrances with which they surrounded themselves, and the difficulties from which (as *critics* in legislature, not practical statesmen) we are not even at this day satisfactorily relieved.

Our deliverers resolved to remedy the exigency

that had occurred through the old, known, and respected medium of a free parliament, so dear to Englishmen, and the chief object and cause of the Declaration itself. The deliverer, however, did not foresee, when he published it, all that was to happen. He did not think, perhaps, of a parliament *without* a king; and whatever his secret designs, he probably did not exactly cast beforehand how he was to get rid of the king, and yet create a parliament.

The unforeseen loss, therefore, of the presence of the king *before the parliament was summoned*, occasioned the difficulty. Was it solved? Let us inquire.

SECTION V.

MARCH OF THE REVOLUTION AFTER THE RETIREMENT OF JAMES.

We have seen how the lords, who had assembled themselves for excellent purposes, though without character, at Guildhall, and had addressed William to advance to London, had returned to James, when James returned to *them*. We have seen, too, upon the second withdrawal of James, how instantly they returned to William.

They were now all again at his beck at St. James's; for they had laid down whatever power they had assumed, and were no longer an assembly except of individuals. Yet these, disjointed as they were, without a character, without a capacity to do any one legislative or representative act, were the first *set of people* (I do not mean to blame him) whom

William pitched upon to address *as the nation*, and ask their advice to carry his *Declaration* into effect. This, and their having gone from the palace to their own house by a sort of magic, charmed them into the belief that, instead of being some eighty or ninety titled gentlemen, they were one of the estates of the realm, lawfully assembled, by the only power which could assemble them, the king's writ.

Let us pause here to ask by what talisman, what strange metamorphose, this could be that constitutional meeting which formed one third part of the legislature; much more how it could pretend to be any part at all of the representation of the people's will, beyond the eighty or ninety units of which they were individually composed?

Yet this collection of individuals were, as we have seen, that solemn court which was supposed to be endowed with the power of *sentencing* their king on the notoriety of his acts, and would have given them power to order him to be tried, had there been "exalted *justice* and superior reason enough in the nation" to have gone through with such an undertaking.*

Hitherto we have neither heard nor seen any thing of the people, either in their collective or individual capacity, whether set free from their government, or not.

* Vide supra.

We have witnessed the march of armies, heard the sound of trumpets, and seen the struggles of contending parties; we have beheld the ascendancy of a foreign prince, and the retirement of a native king; but of any organized appearance of a people, acting numerically, or by representation, we have been in total darkness. Does the meeting of individual lords, even though they had taken possession of what they called their own house, which gave *an air* of greater independence and authority to their deliberations, does this enlighten us? Again, I say, I think not.

Certainly, if William had no right to assemble them, and they no right to assemble themselves, as a House of Peers, it was not the chamber where they did assemble that could supply the defect.

Assemble, however, they did, and whether their old walls enlightened, or their own virtue encouraged them, they assumed the port and privileges of the peers of the realm in parliament assembled. They chose a Speaker, the immaculate and consistent Halifax, and named other officers. Did this make them the *legitimate* House of Peers? still more, a constituent part of a parliament, not only to which a House of Commons was wanting, but which had never been called together by the proper authority?

Defective, however, as their construction, and

therefore their authority, evidently was, they made use of their usurpation for acts of the highest consequence to the nation. They addressed William to assume the whole government of the kingdom in his person, and, as such, to issue summonses to all parts of the kingdom for the meeting of a parliament, which they thus thought would be regularly assembled.

I entreat you to observe, that in this I am far from blaming the proceeding of the lords; for even without parliament, the peers have a known constitutional character: and if an individual peer can claim to give advice to his sovereign, much more may the whole peerage united. But this requires a real and known sovereign, and extends to *advice*, not power, though an opinion is recorded by Echard, that the peers have an intrinsic power, which, like a spring, may be kept down by the weight of the sovereign; yet, when the weight is removed, as it was here, the spring recovers its force, and resumes its elasticity.

Ingenious as this may be, where it is to be found in our books of constitutional law, I in vain seek to discover.

You will perceive, however, that I direct this criticism on the powers assumed by the peers, only against those jurists, who, waving the argument from necessity (the only real or justifiable one on this occasion), attempt more, I think, than the question requires, in

the endeavour to prove that these peers, thus assembled, were the old legitimate upper house of parliament, and acted as such.

Was it this which prompted observations as devoid of justice, as I think they are of liberality, from a democratic oracle from across the Atlantic, who seems to regard us with no friendly eye, yet is so good as to instruct us as to our constitution in the tone of a master? I mean Mr. Cooper, whom I mean any thing but to offend, when I say that I like his novels better than his law. That an American should not be in good humour with a House of Lords, does not surprise; but there is method even in madness. A democrat has a right to wish lords at the bottom of the sea; but while upon earth, and tolerated by less elevated creatures than republicans, they have a right at least to fair play. Where in history does this great person find that "The peers of Great Britain, considered as a political body, are usurpers in the worst sense of the word?" Where that they are usurpers at all? Where authority for saying the authority they wield, and the power by which it is maintained, are the results neither of frank conquest, nor of legally delegated trusts, but of *insidious innovations* effected under the *fraudulent* pretences of succouring liberty. He allows they were "the principal, and at that time the natural agents of the nation in rescuing it from the tyranny of the Stuarts; but profiting by their position, they have

gradually perverted the institutions * to their own aggrandisement and benefit. This," he adds, "is substantially the history of all aristocracies, which commence by curbing the power of despots, and end by substituting their own."† N.B. This is the exact account of the democrats of the Long Parliament. Yet as a not unjust criterion of human nature at large, it may be allowed; but a republican is the last man in the world to presume to attribute it *exclusively* to aristocracies. Mr. Cooper would do better, perhaps, to defend his democratic brethren, for their cruel abuse of power in retaining the Slave Trade, than in vituperating the aristocracy of England, who contributed so much to its annihilation. At any rate he is forced, we see, to allow the English House of Peers the merit of having been the principal and *natural* agents in rescuing the nation from the tyranny of the Stuarts, a call upon him, one would think, to demonstrate by *proofs*, an assertion which, till proofs are produced, we may consider as mere commonplace declaration *ad captandum*.

But to return to the peers of 1689. Most certainly they did not only what they might have done had their meeting been regular, but a great deal more. They, standing single, and without the support of the other house, addressed the prince, as we have before related; but as to the people, it

* Query, what institutions?

† See Mr. Cooper's work upon England.

would be most difficult to find them, except in the mobs in the street, who, from time to time, and as they thought they could succeed, used the sovereignty which had reverted to them, by making free with other people's property now without safeguard from the law, which, we are told, was annihilated.

In fact, though the interests of many leaders individually, of corporations, of the church, and of the magistracy had been talked of, and, in some measure, stipulated for, the people were wholly overlooked. Not a word was said about them or their authority collectively, either by the deliverer, or those who invited him, or the bishops, or the magistrates, or the corporation of London, or any other corporation.

These first principles of authority, this only source of power, which have been the theme of our enthusiastic admiration a hundred years after them, were never thought of at the time, much less mentioned, by any of the parties concerned.

As it was, William was hugely tempted, but at the same time embarrassed by this address of the lords, His embarrassment, however, only arose from the difficulty of dallying between accepting the offer from the lords alone, and waiting for a House of Commons to join in it.

This was unfortunate, for there were then no Commons in existence; and if the lords, who were all

personally recognised as the individuals who must form the House of Peers, when properly assembled, had no collective character, still less could any set of men pretend to be the Commons, who had all melted into air on the dissolution of the last parliament.

This was a sad dilemma; but when things, right or wrong, are resolved upon, and have power to back them, resource is not wanting.

So all the old members who had sat in any parliament of Charles II., who could *be found in town*, were ordered to assemble, and *call themselves* the House of Commons, and, by way of a Corinthian capital to this clumsy base, the aldermen and fifty common councilmen of London were brought from their shops, and ordered to assemble with them.

Does not this remind you of the Revolution in the Rehearsal, where the two usurpers enter the chamber of the two kings of Brentford, sit in their chairs, and, in the twinkling of an eye, are transformed into sovereigns? Even the author of this part of the history seems ashamed of his puppets, for puppets they were, and did as they were bid, and took possession of the Commons House, as the peers had taken possession of theirs, and chose a Speaker, the patriot Powle, one of the pensioners of Lewis XIV., and thus the two Houses called themselves Lords and Commons.

This was to William a great satisfaction, and dispelled his doubts, for they desired him to administer the government, and issue summonses for a parliament, which he cheerfully did.

In the Commons, however, there was a not unnatural anxiety to know how they came there, and how they could be the Commons of England, when none of them had been elected.

But this false modesty was soon repressed; and it was resolved that the prince's warrant was quite sufficient to salve their consciences. I need not ask what, except the sword, gave the prince a right to issue this warrant?

One member indeed (Sir Robert Southwell), had the temerity to say he could not conceive how it was possible for the prince to take upon him the administration without some distinguishing name or title.

But he was silenced by Serjeant Maynard (whom Swift calls an old rogue, and who in the Long Parliament seems to have deserved the appellation), who said they should wait long and lose much time, if they waited till Sir Robert conceived how that was possible.

But Mackintosh defends his own "spurious and motley assembly" by saying this sarcasm had "some reason; *for it would have been in vain to look for regularity where all was irregular.*" *

Thus he seems, like Jaques in the play, to have discovered that "Motley's the only wear."

* Mackintosh, vol. ii. 282.

"I met a fool i' the forest,
A motley fool, a miserable varlet—
A worthy fool; motley's the only wear.
O, that I were a fool
I am ambitious for a motley coat."

Upon the whole, if we come to consider the *lawful* authority of the meeting I have described, I see not why, if William had thrust a regiment of Dutch guards into the Commons House, and made them deliberate, as Cromwell would have done in the same circumstances, why they would not have been invested with quite as much *legal* right to be called and thought the Commons of England, as this "spurious and motley meeting."

The reasons for their legitimacy would be quite as good: "It would be in vain to expect regularity, *where all was irregular.*"

And this is the first indication we have of an appearance of a recognized power, having even a semblance of the people, being introduced on the theatre of the Revolution.

Whether this assembly had any right to be called representatives, or whether any thing it could do deserved that glorious character which we are usually so fond of bestowing upon the event, the exhibition of the solemn act of a great and wise nation, assembled before the world to pronounce, on the greatest crisis which could happen to it, the dissolution of one government, and the establishment of another, this is

a question which, from the premises detailed, we have no great satisfaction in asking. Most indubitably the PEOPLE have not yet appeared.

However, all was soon cured by this bastard meeting, engendering another, which, though also a bastard, seemed, if not legitimate, yet something more like a representation of the people, in the ordinary form.

For the "spurious and motley" by voting the prince into the government, and desiring him to summon a more regular meeting (which he did), produced the great Convention Parliament, whose first act was to vote themselves the real people, and then to dethrone James, and make William king, who then summoned another parliament, who thus, it was said, became a real one, and, by their first vote, declared the convention to be so too, with a convincing argument of pains and penalties upon all who doubted it, which was pretty much the same as Lord Peter's declaration, that whoever denied his brown loaf to be a leg of mutton, should be damned.

Previous, however, to this meeting, such as it was, of the representatives of the numerous individual sovereigns who then composed the sovereignty of England, the prince, in virtue of his delegated power from the no delegates, borrowed 200,000*l.* from the City, chiefly, as it was said, for securing the

protestant interest in Ireland. But to this purpose, or at least in the proportions contemplated by the lenders, it was not applied. Here, then, was there not an abuse? and an abuse in a king, much more in a nondescript *locum tenens*, is misgovernment; and misgovernment, as we have seen, gives a right of war. William, therefore, was in the outset, and before he became a king, a tyrant, according to all legal description of one.

For now were issued search warrants against printers and pamphleteers who had abused him, though only when in charge of the provisional government, and before things were settled by his assumption of the crown.

If any thing could have justified the most free exercise of the liberty of the press, it was surely the exigencies of such a time as this, when the very life blood of all that had been done, or was doing, depended so entirely upon public opinion. If really the Revolution was just, virtuous, and necessary, the fullest liberty to discuss it was imperative on both sides; especially by the lovers of philosophic liberty, who rested their cause upon the arguments, not the bayonets, of the Deliverer.

Yet what was the fact? Mobs were arrayed against all who differed from them, with weapons far different from reasoning, the use of which weapons also they *far better* understood. These were what, under the

guidance of the honest and just demagogues of the Long Parliament, drove the king to seek refuge in arms, and then they denounced him for taking them; and why should not the same means produce the same effect?—Sherlocke, however, had the honour to be answered not by a bludgeon, but a pen, though that pen was Burnet's. Sherlocke was dean of St. Paul's, was for recalling the king, and wrote cogently in favour of it; among other topics, he doubted the assertion of a treaty with Louis for the destruction of the protestants. "This," said he, "did more to drive the king out of the nation than the prince's army." This, therefore, ought to be examined, as, if it should prove *a sham*, as some say it is, it seems half an argument to invite the king back again.

Fearing impression from this, Burnet was ordered to reply to it, which the obsequious doctor willingly obeyed; so that the paper war raged with sufficient violence, and, as it should seem, the prince had the worst of it.

The pensionary's letter to Stuart on the subject of the tests abounded with expressions of affection, gratitude, and duty on the part of the prince and princess to the king. They declared, through Fagel, that they were resolved to continue in the same sentiments of affection and duty to his majesty, or to increase them if possible.

The passages expressing these unalterable or increasing sentiments of love and duty were selected and reprinted, with commentaries insidiously respectful, and the following memorandum appended by way of note. — "These singular expressions of affection and duty to the king their father were sent after those irregular and offensive measures of quo warranto charters, the dispensing power, closeting, the ecclesiastical commission, and Magdalen College, were practised. It is scarcely necessary to add, that these were the leading grievances urged by the prince in justification of his enterprise."

The Prince of Orange had his full proportion of pamphleteers in the field, and he was personally a sort of idol whom none dared to attack, — to whom all parties offered homage from inclination, interest, or fear. Yet the prince and his Whig advisers, who had printed in Holland, and circulated in England, the most scandalous libels upon the king, issued a search warrant, worthy of James II., the Charles's, and the Star Chamber, after authors, printers, and sellers of unauthorised books and pamphlets.

"But the proofs," continues Mackintosh's Continuator, "are numberless, and the fact indubitable, that the men of the Revolution of 1688 *were as little disposed as their adversaries, whether Tories or papists, to concede the free exercise of either human reason or religious*

conscience." † He goes on in a strain remarkable for such a champion of liberty.

" Hitherto, the assumption of a power to suspend or dispense with laws, was the main grievance specifically urged against the king, and the sheet-anchor of the designs of the prince. To these were now added the imprisonment of the bishops, and the imposition upon the nation of a spurious heir to the crown. James II. is sufficiently odious, and his deposition from the throne sufficiently warranted, without injustice or aggravation. It may be right here to pause for a moment upon these three chief heads of accusation.

" James affected to be above the law, and was therefore a tyrant. He did not, however, assume the right of suspending or dispensing with all laws, as, according to the popular notion, he is supposed to have done, but only those penal enactments which interfered with his prerogative of commanding the services of all and any of his subjects. His lawyers told him this was a prerogative inseparable from his person, which no statute could limit or invade. The same prerogative had been claimed by Charles II., vindicated by Shaftesbury, and withdrawn from operation rather than renounced. James, then, did not assert it without precedent, or without law authority.

† Hist. Revol. vol. ii. 296.

He did not assert it without appeal. He submitted the question to the competent jurisdiction, and eleven of the twelve judges decided in his favour. Such a prerogative, it is true, was equivalent thus far to arbitrary power; but this admission would only prove, *that arbitrary power had countenance from the law of England.* The judges, it will be said, misinterpreted the law from fear or favour, and were appointed for the purpose. But discarding, as a delusive phrase, the maxim, that the king can do no wrong, and holding James responsible of right, as he was held in fact, still he was not the sole criminal, but the accomplice, and, in some measure, the victim of corrupt or craven judges, and of an anomalous system of jurisprudence, which allows judges to make law under the name of expounding it. In fine, of the eleven judges who decided the case of Hales, four only were named by the king."

"To come to the case of the bishops: — they refused compliance with an order of their king, whilst they professed passive obedience to him, as a tenet of their church; and, after having in precisely the same matter obeyed the royal mandate implicitly in the late reign, they presented a petition to the king desiring to be excused. They considered their petition legal and dutiful, as most assuredly it was. The king considered it a seditious libel; committed them, in default of bail, upon their refusal to enter

even into their own recognizances; submitted the question to trial by a jury of their common country, and the verdict was against him. His proceedings, then, against the bishops, however vexatious and oppressive, were not illegal, and therefore not tyrannical. The surest test will be to suppose James, for a moment, a true son, not of the church of Rome, but of the church of England, and the objects of his prosecution, not protestant bishops, but dissenters or papists, would not his conduct be very differently viewed, though the question of its legality would remain the same? The charge respecting a supposititious heir was one of the most flagrant wrongs ever done to a sovereign or father. The son of James II. was, perhaps, the only prince in Europe of whose blood there could be no rational doubt, considering the verification of his birth, the unimpeached life of his mother, and the general morality of courts and queens.

"The imprisonment of the bishops, and imposition of a spurious heir, were put forward as the grievances which immediately provoked and justified the expedition of the Prince of Orange; but these incidents were merely seized on as favourable pretences. The prince had resolved upon it long before, and waited only for a favourable conjuncture, and was already making his arrangements in concert with the States of Holland, his allies abroad, and his friends in England.

Viewing the Revolution of 1688 at this distance of time, and with the lights of the present day, it is impossible to deny James a certain superiority in the comparison of abstract principles: his standard bore the nobler inscription. He proclaimed religious liberty impartial and complete; and had he not sought to establish it by his own lawless will,—had his proceedings been but worthy of his cause,—posterity might regard him not as a tyrant justly uncrowned, but as a beneficent prince who became the victim of an *intolerable faction*, an *overweening hierarchy*, and *a besotted multitude*."

What are we to say to this powerful apology for James by his most determined opponent? What of the opinion expressed of the *glorious* enterprize?

Surely, if this was the real character of the Revolution, drawn by its most determined defender, those who have nursed themselves into an opinion that it was the unanimous effort of a great and enlightened nation, so deeply versed in the principles of philosophic liberty, and so alive to the infraction of those principles by their sovereign, that they rose, to a man, to assert and resume their abstract and inalienable rights,—those, I say, when they come to the facts, will probably be disappointed.

Nor will they be less so, I fear, who have conceived notions which the heart would warmly welcome, but is forced totally to reject on examination, of the pure

patriotism, contempt of danger, and generous devotion of self to the public weal, in those whom cursory readers of the common histories of the times have dignified with the characters of deliverers. I except not the great Deliverer himself; in respect to selfish views, sincerity, or a bold assertion of liberty, not less unworthy than the hypocrites who used him, as he used them, each to serve himself, under what we have seen stigmatized as *perfidious arts and false pretences.**

The effect of late discoveries has been woeful to our national feelings and national pride. The greatest names sink to nothing; and characters we have been used almost to adore, become the sorriest knaves and veriest of pretenders that have appeared in history.

You may remember in one of Voltaire's wittiest satires upon the illusions of the world, (I think "Babouk, ou Le Monde comme il va,") Babouk, at Paris, going to a celebrated tragedy, full of glowing sentiments, is so struck with the energy and pathos of the principal actress, a persecuted princess and model of conjugal virtue, that he conceives the most ardent desire to be acquainted with her, in order to offer his adorations.

Accordingly, he waits upon the princess the next

* Supra.

day; and to his astonishment and horror, finds her, instead of a palace, in a sordid lodging, up two pair of stairs, living in adultery, and with child by her keeper.

I dare not apply this to our glorious Revolution or its immaculate heroes; certainly not to all its actors, many of whom charm us in the history, as the princess did Babouk.

But if we really coolly inquire into the genuine character, either of the Revolution itself, or of those who accomplished it; the manner in which it was brought about, or the duplicity, treachery, and personal views of its principal leaders, I am afraid some of our happiest prejudices will be overset, and there will be laid bare many "a mean heart that lurk'd beneath a star."

I am sorry for this, and would rather that I had not, like Babouk, undeceived myself by calling at the heorine's lodgings.

Say what we will of our innate love of liberty, of our free constitution and our Roman spirit, as they appeared in those times, it cannot be denied that they all of them nearly originated (certainly received most powerful aid) from either contemptible selfish views or the detestation of popery.

"Though the nation in general," says Macpherson, "were offended with the king, very few dreamed of depriving him of the throne.

"Their present defection arose from their apprehensions of the popery of the king, not from any aversion to the legal authority of the crown. That republican enthusiasm which had overturned the throne forty years before, was either altogether extinguished, or softened down into the more practicable principles of limiting the royal prerogative.

"A breach upon the regular succession, though perhaps the nearest way to the absolute security of public freedom, was neither understood nor desired.

"Men judged of the future by the past. A disputed title to the crown had dyed the annals of former ages with blood.

"No declaration of the legislature could alter at once the principles of mankind, or induce the nation, in general, to relinquish the first maxim in government delivered down from their ancestors.

"*Few had yet arrived at that philosophy in politics which gives its necessary weight to authority, without deeming obedience* a moral duty."*

These sentiments, if they are not perfectly correct in the abstract, are so far founded on the fact, that they seem to have animated the great bulk of the people from the highest to the lowest. We know what fanaticism did in exciting and pointing the courage of the saints against Charles I., and so here,

* Macpherson, vol. i. 547.

had the nation been catholic, we should, probably, never have heard of the Revolution.

The excitement continued long after the fears of liberty were appeased.

For when a spirit of returning love for James, and the unpopularity of William, prompted perpetual inquiries into the feasibleness of an invasion, a very sensible friend tells him there is no doubt his well-wishers, were it not for his popery, formed the majority of the nation, particularly among the upper ranks; but that the bulk of the people continued in such fear and detestation of his religion, that they would rather bear the oppression of William than join him.

Even Marlborough, professing to be ready to die for his master, asserts that he is still more ready to die for his faith; and that, though he cannot live the life of a saint, he is able, should there be occasion for it, to show the resolution of a martyr.* He did better, he continued to profit by the places, and betray the confidence of James while James had places to bestow,—changed sides with fortune (that guide of the base), and has left the name of Marlborough, like that of Bacon, a perpetual memorial of the excellence of human capacity and the infirmity of human reason."†

* Letter to Prince of Orange, 17th May, 1688, in Coxe.

† Mackintosh, vol. ii. 130.

No! Marlborough was no patriot; but with grief, be it said, a base time-server, who stuck by place as long as he thought place would stick by him. Laying the ground, however, for obtaining all proper rewards, for changing sides, at the proper prudential moment; that is, when to continue where he was seemed hopeless. Hence his letter to the prince of the 4th August:—

"Mr. Sidney will let you know how I intend to behave myself. *I think it is what I owe to God and my country.*"

What! to continue in the service of James, direct his counsels, and command his troops, with a view to betray them both to James's determined enemy?

Whatever he may say of the country, supposing him sincere, is this the way of serving God—the God of truth, the detester of hypocrites?

He goes on:—

"My honour I take leave to put in your royal highness's hands, in which I think it safe." (Very lucky for him that he could find any one to take care of it for him.) "If you think there is any thing else I ought to do, you have but to command me."*

This was four months before he left James, whose confidence and pay he all that time continued to pocket; and here Mackintosh's Continuator again

* Letter 4th August 1688. See Coxe.

well observes, "This letter, without any other testimony, would prove that he was in the confidence of the projected invasion. No zeal, pretended or real, for God or his country, can cover the infamy *of continuing* to command the troops, betray the confidence, and abuse the kindness of King James for several months after he had deposited *what he calls* his honour with James's enemy."

There is another letter of his (better known) to James himself. In this he asserts that he acted contrary to his interests; implying, therefore, that he was sincere in resting, as he did, his desertion upon his religion.

If he really did act contrary to his interests, it was a particular reason with him to be believed; for several years after, so well was his attachment to his interests known, that the Duke of Shrewsbury, writing to William in his favour, observes, "It is so unquestionably his interest to be faithful, that that single article makes me not doubt it."*

But was it really contrary to his interest to desert a falling, in order to attach himself to a rising, master? And as to his religion, with such a high principle, we must agree that he should have been long before in the court or camp of William.†

Biting, overwhelming as these observations are, it

* Shrewsbury Papers, Ap. Coxe's Marlb. vol. i. 72.

† Mackintosh, vol. ii. 253.

is no more than what is deserved by this far-famed person, who, let his military reputation be what it will, can never get from under it, and is damned to eternal fame for this mode of showing his *patriotism.*

It is unnecessary, after this, to go into the several other questions in regard to his honesty; to discuss whether he wilfully gave his advice to James to quit the field, in order to ruin him, or his mean overtures to be taken into favour again, when he found that he did not succeed so well with William, who, like many other leaders of armies and parties, loved the treason, but despised the traitor. It is needless to inquire into the degrading imputations of De Torcy.

Yet Marlborough became so prominent a character in the history of Europe, and is supposed, by the glory he afterwards acquired, to have contributed so much *to the glory of the Revolution,* that it is imperative, upon the spirit of historical truth, to inquire into the extent of the credit and the lustre which he may have shed upon that great transaction.

In compliance with this duty, ought we, or not, to notice the fearful, the terrible imputations, cast upon him in respect to his designs, not only upon the personal liberty, but even the life of James?

James himself, whose testimony, Mackintosh says, is most deserving of respect, narrates that " it was generally believed " that Lord Churchill, Kirk, Trelawney, and some others, had formed a design to seize his person, and deliver him to the Prince of Orange. Father Orleans, who wrote under the eye

of the king, states it more confidently; Reresby says it was generally believed, and that its failure caused Marlborough's flight.

The bleeding with which the king was seized, occasioned this failure; and hence James calls it providential.

The king himself says nothing of the intended assassination; Coxe, the biographer of Marlborough, is equally silent; and charity, together with its being totally foreign to his acknowledged want of ferocity, in Churchill, would lead us to disbelieve it, upon any thing short of irresistible proof.

Whatever that proof, it is to be sought in the papers of Carte, published by Macpherson, vol. i. p. 280., in which appears a death-bed confession by Sir George Hewett, communicated to Carte by Mr. Malet, of Comba Flory, dated September 3. 1745, and stating that it was found in his uncle's pocket-books. The paper states, on the information of the deprived bishop of Kilmore, Dr. Sheridan, given in November, 1709, (thirty-six years before) that *several years before that* he had seen, at the old Earl of Peterborough's house, this death-bed confession of Hewett, who died at Chester, of a sickness contracted at Dundalk Camp in Ireland; which, therefore, takes it still farther back, to 1690. Thus the evidence for this extraordinary accusation had lain dormant fifty-five years before it had reached Carte.

If these difficulties are got over, and all the parties mentioned are to be believed, Hewett is held to have

said that his conscience was troubled for having assisted at a meeting of Lord Churchill, the Bishop of London (Compton), Kirk, and others, in which it was resolved to seize and deliver James to the Prince of Orange; and if Maine, the staff officer on duty, should oppose it, then Churchill should stab or pistol him.

In another paper, there is another version of it, upon the same authority (Dr. Sheridan), in which Salisbury was the place indicated where the deed was to be perpetrated.

This is again confirmed by a Colonel Ambrose Norton, who relates it upon the authority of the same Sir George Hewett, not in confession, but conversation, in which he said it was resolved to seize James when Lord Churchill was gold stick in waiting, and in the coach with him, and that if any of the papist officers should endeavour a rescue, Hewett was to shoot him; or if that missed, Churchill was provided with a pocket pistol and dagger to despatch him. "But it pleased God," says Hewett, "that his nose bled, so that he was prevented from going to Warminster."

From all this it appears, that there is a chain of five links to be gone through before the account reaches Macpherson: Carte, Mallet, his uncle, Colonel Norton, and Sir George Hewett.

These accounts may be criticised, but there is one other still more striking, on account of the consideration of the parties vouched; it is from the respect-

able Erasmus Lewis, the faithful secretary and friend of Oxford. Of him Carte writes thus:—

"Erasmus Lewis told me at the same time, (this very day, April 10, 1749,) that Lord Delamere and E. Warrington had been in the secret of the design of assassinating K. James II. at Warminster, at the review: and told it frequently, that when at the consult among them about executing it, several methods were proposed, the Duke of Marlborough said, I see plainly these will not do! I must stab him myself in the chariot as I go with him."* Lord Delamere here, therefore, adds one more to the witnesses already enumerated.

Such is the relation of Carte; *valeat quantum.* If truth, the heart sickens to think that so black a spirit could belong to such a man as Marlborough; and yet to the truth of facts so succinctly stated, and from such various quarters, there is nothing to oppose but that Carte must have forged them. For, as we have seen, there are six other authorities cited; so that if Carte is honest, all six must have concurred, though with intervals of years, in forging and propagating the slander. That Coxe should not condescend to mention it, even though to defend his hero, may not surprise us; but that Hallam and Fox, who were no friendly critics of the duke, should pass this pointed and heavy accusation without notice, is, at least, remarkable.

* Macpherson's State Papers, vol. i. 181—184.

But though we may be loath to believe that Marlborough was capable of designing to murder his king and benefactor with his own hand; of his proved treason to his new master and his country, ending in the slaughter of his gallant fellow-soldier, the brave Talmashe and his little army, there can be no doubt.

You will perceive that I allude to his revealing to France the designed expedition against Brest; for which, if ever traitor was hanged, he deserved to be so. His biographer, Coxe, admits the fact with all its aggravation, for it was only a few days before he offered his services again to William, with whom he was deservedly in disgrace.*

The endeavour to explain it by Coxe is admirable. "We are far from attempting," says he, "to palliate this act of infidelity; yet from the time and circumstances of the communication, we are forced to regard it in no other light than as one of the various expedients adopted by Marlborough and others to regain the good will of their former sovereign, that their demerits might be overlooked in the event of a restoration.†

In no other light!! I grieve for Coxe's ethics. For if time and circumstances can palliate crimes leading to the deaths of hundreds of brave men, what crime may not be palliated? There is this, however, to be said for the archdeacon: his apology was only

* Life of Marlborough, vol. i. 76 † Ibid.

for want of a better, which Mackintosh could have supplied him; but when Coxe wrote, he had not had the benefit of the doctrine respecting "Reformatory Revolt *," which, if Marlborough found William's government too galling, gave him a right to take arms to alter it. If so, the duke, being justifiably at war with the king, only used the rights of war to ruin him.

Does Macpherson, however, mend the case by saying the "*zeal* of the Earl of Marlborough for the service of the late king, or his *aversion to the reigning prince*, induced that nobleman to become, upon this occasion, *an informer against his country*." †

How mild is this way of describing one of the most infamous treasons against his country for which ever man died on a gibbet! Where was his zeal for the late king when he sold himself, or, what he called his honour, to William? Where, when, if unrefuted report be believed, he gave him false counsel in order to betray him? Where, when, being commander of his body guard, he conspired to seize him? and where his aversion to William till, from his justly bad opinion of his truth, he found he would not promote him?

Those who take the duke upon trust, or know him only as a general, would do well to consider the details of this treasonable letter relative to the design upon Brest. The minuteness of them shows

* Vide supra. † Macpherson, vol. ii. 67.

how deep and determined was his roguery, and justifies the insertion of the whole letter.

He informs James, that twelve regiments encamped at Portsmouth, with two regiments of marines, all commanded by Talmashe, were designed for destroying Brest and the ships of war in that harbour. He owned, that success in the enterprise would prove of great advantage to England; *but that no consideration could now hinder, or ever should prevent him, from informing his majesty of all that he believed to be for his service.* He desired the late king to make the best use of the intelligence. He told him, that he might depend on its being exactly true; but he conjured him, for his own interest, to keep the secret to himself and the queen. He informed him, that Russell was to sail the next day with forty ships; and that the rest of the fleet, with the land-forces, were to follow the admiral in ten days. He had endeavoured, he said, to learn the whole from Russell; but he always denied the fact, though he was no stranger to the design, for six weeks before. "This," continues the earl, "gives me a bad sign of this man's intentions." Sackville, who transmitted the letter, formed, for the same reason, a like unfavourable opinion of Russell. He mentioned, "that the man had not acted sincerely; and that he feared he would never act otherwise."

Such is the brilliant light in which two of the greatest worthies of the Revolution appear. One, breaking all trust; complaining that the other was

not to be trusted, because not hearty enough in baseness.

Russell, let it be remembered, was one of the signers of the Invitation. Let us see what other men of judgment think of Churchill. "As for Lord Marlborough," says Hallam, "he was among the first, if we except some Scots renegades, who abandoned the cause of the Revolution. He had so signally broken the ties of personal gratitude in his desertion of the king, on that occasion, that, according to the severe remark of Hume, his conduct required for ever afterwards the most upright, the most disinterested, and most public-spirited behaviour, to render it justifiable. What, then, must we think of it, if we find in the whole of this great man's political life nothing but ambition and rapacity in his motives, nothing but treachery and intrigue in his means? He betrayed and abandoned James because he could not rise in his favour without a sacrifice that he did not care to make; he abandoned William and betrayed England, because some obstacles stood yet in the way of his ambition. I do not mean only, when I say that he betrayed England, that he was ready to lay her independence and liberty at the feet of James II. and Louis XIV., but that, in one memorable instance, he communicated to the court of St. Germains, and through that to the court of Versailles, the secret of an expedition against Brest, which failed in consequence, with the loss of the commander and eight hundred men. In short,

his whole life was such a picture of meanness and treachery, that one must rate military services very high indeed, to preserve any esteem for his memory.

"The private memoirs of James II., as well as the papers published by Macpherson, show us how little treason, and especially a double treason, is thanked or trusted by those whom it pretends to serve.

"We see that neither Churchill nor Russell obtained any confidence from the banished king. Their motives were always suspected; and something more solid than professions of loyalty was demanded, though at the expense of their own credit."*

These strictures of Hallam are not necessary to tell us how Marlborough would have used the employment he was then seeking, had he obtained it: he would have been a second Sunderland.

There is an account preserved among Nairn's papers, published by Macpherson, which, with others of the same nature, admirably describe the fidelity

* Constitutional Hist. vol. iii. 387. As for Russell, the hero, and one of the seven *eminents*, who invited William, no baseness or infamy recorded in history exceeds his conduct in the business of Sir John Fenwick. That unhappy person, to save his own life no doubt, accused the future Lord Oxford, as well as other ministers of William, of being his accomplices in his treason in favour of James, and there is little doubt but that the accusation was founded, though not legally proved. Believe it, men of honour, if you can, that this Russell was the man to move the bill of attainder against Fenwick. Well might Hallam say, that the last was the victim of fear and revenge. Vol. iii. 399.

and honour of character of these boasts of the Revolution. It is from Floyd, a confidential agent of James, and of course of the French government. The worthy persons to be treated with by this agent, were, in addition to Churchill and Russell, Shrewsbury himself, who, it will be remembered, also, signed the Invitation. Shrewsbury was then secretary of state; Russell, admiral of the fleet, and celebrated for his valour (would we could say his honesty) at La Hogue.

Can we, without regret, add to these Godolphin?

By all these Floyd was entertained in confidential communication; and quite sufficient passed to prove that they were all knaves.

What should have made them so, enjoying or expecting all that their ambition could desire, is a riddle in human nature! The only clue that can be conjectured for it is, either the excuse assigned by Coxe, that they expected a restoration, and were unwilling not to profit by it; or they had anticipated Mackintosh, in his doctrine of the legality of a reformatory revolt.

Any way the guilt is certain, and the particulars curious.

In describing the real characters of our patriotic deliverers, the pen falters as it proceeds.

What can it say of Danby?—a burning meteor, raging in every part of the heavens: at one time the father of corruption, the scourge of honest men, the tool of a tyrant; at another, the champion of liberty

and the right of resistance. Again, the obsequious placeman; the bribed of the India Company; twice impeached for enormous dishonesty, imprisoned for years, screened, but not acquitted, yet accomplishing the first honours of the state, which he had thus perpetually betrayed.

I need not say that, having betrayed the people when the tool of Charles, he was not true to them when the servant of William. The proofs are abundant of his tergiversation from every cause he espoused.

Having taken arms against James, and figured as one of the seven champions (for he, too, signed the Invitation), William could not hold him though he made him a duke. Accordingly, we find him listening favourably to schemes for revolutionising the Revolution, and embarking in them with the other patriots, of whom we have just made such honourable mention.* Can we wonder at the satirical ballad, said (though erroneously) to have been composed by Dryden?

"Clarendon had law and sense,
Clifford was fierce and brave;
Bennett's grave look was a pretence;
And Danby's matchless impudence,
Helped to support the knave."

Of Compton, the lying bishop of London (another *signer*), we have already spoken.

* See Macphers. State Papers. Hallam thinks his conduct so much against his interest, that he feigned treason himself, in order to detect it in others.

Of him, the later historian of the Revolution says, "he seems to have been a thoroughgoing partisan, ready to say or do any thing required of him by his party, his ambition, or his *safety*." He signed the Invitation, and, in the presence of King James, foreswore, in the worst form, that of an equivocation, his knowledge and his deed. He was ready to sign any thing, like the libertine, and swear any thing, like the Jew in the dramatic *chef-d'œuvre* of Sheridan, "The School for Scandal." For these merits he was named the Protestant Bishop, and enjoyed a vast reputation.

To show how he deserved it, take another instance of his hypocrisy. Though one of the *inviters* to dethrone James, and writing full of attachment to William, he *prays* for him, he says, among other reasons, for his *usefulness* to the crown; for, adds he, "if the king should have any trouble come upon him, *which God forbid*, (to invade him with a fleet and army was, to be sure, no trouble,) we do not *know any sure friend* he has to rely upon abroad besides yourself."

At that moment he was planning the invasion with William, who must either have laughed in his sleeve at him or thought him mad. We cannot but agree to the remark upon it, that it was either a simplicity so gross that it could not be believed, or an hypocrisy to a pitch of grimace which could not be supposed even in so bold a prevaricator.*

* Hist. Revol. vol. ii. 131.

Would that I had not another failure to examine among the managers of the Revolution, who were betrayers of James rather than the defenders of the people.

It is impossible, however, in such a catalogue, to omit the name of Godolphin. "*Clarum et venerabile nomen.*" A name that, for the most part, stands for integrity and public virtue, sufficiently, indeed, proved by his *later* life,—a name which Pope has consecrated in the lines,—

> "Who would not praise Patricio's high desert,
> His hand unstained, his uncorrupted heart;
> His comprehensive head, all int'rests weighed,
> All Europe saved, yet Britain not betrayed?"

But was this always so? And though, probably, no money bribe ever went into his coffers, was Britain never betrayed? was his ambition pure? In short, was his conduct, as the minister of James or Charles stainless, whatever it might have been as the treasurer of Anne? Was he true either to James or William? The answer to these questions is to be found in his cognisance and participation of the most infamous of all transactions,—the bribery, by Louis, of his master James, to enable him to govern without his people. He did not, indeed, like the corrupt and base Sunderland, take a pension of 2400*l.* a year from France, and ask for more as a price for farther treachery, but he fostered and assisted, by all the powers of his office, the iniquitous mendicity of James. That unfortunate man, having agreed to

betray Europe to France for the lucre of gain, and received 500,000 livres as a deposit, sent the virtuous Churchill, with the privity of the virtuous Godolphin, to solicit for more. Under this degradation of both personages, take Fox's forcible description of them from Barillon. When the 500,000 livres arrived, "the king's eyes were full of tears, and three of his ministers, Rochester, Sunderland, and Godolphin, came severally to the French ambassador to express the sense their master had of the obligation, in terms the most lavish.

In another place Fox says, "Thus ended this disgusting piece of iniquity and nonsense, in which all the actors seemed to vie with each other in prostituting the sacred names of friendship, generosity, and gratitude, in one of the meanest and most criminal transactions which history records." *

Fox goes on: — "The principal parties in the business, besides the king himself, to whose capacity at least, if not to his situation, it was more suitable, and Lord Churchill, who acted as an inferior agent, were Sunderland, Rochester, and Godolphin, all men of high rank, and considerable abilities, but whose understandings, as well as their principles, seem to have been corrupted by the pernicious schemes in which they were engaged. With respect to the last-mentioned nobleman, in particular, it is impossible, without pain, to see him engaged in such transactions. With what self-humiliation must he not have reflected

* Fox's Hist. 88. 92.

upon them in subsequent periods of his life. How little could Barillon guess that he was negotiating with one who was destined to be at the head of an administration, which, in a few years, would send the same Lord Churchill, not to Paris to implore Louis for succours towards enslaving England, or to thank him for pensions to her monarch, but to combine all Europe against him in the cause of liberty; to rout his armies, to take his towns, to humble his pride, and to shake to the foundation that fabric of power, which it had been the business of a long life to raise at the expense of every sentiment of tenderness to his subjects, and of justice and good faith to foreign nations. It is with difficulty the reader can persuade himself that the Godolphin and Churchill here mentioned are the same persons who were afterwards — one in the cabinet, one in the field — the great conductors of the war of the succession. How little do they appear in one instance, how great in the other!" †

As it was not Mr. Fox's design, in his history, to go farther than James, he did not pursue Godolphin into the reigns of William or Anne. Had he done so, his eloquent regrets at his lubricity (to call it by no harder name) would not have been appeased even by the splendid reputation which latterly belonged to this doubtfully charactered earl. With all his fair seeming, we might say to him, as the Duke

† Fox, 96.

of Lerma to Gil Blas, that he exhibited a little of the piccaroon. As to his attachment to liberty and revolutionary principles, it is notorious that he supported or gave the countenance of his office to all James's measures, and, in particular, concurred in the prosecution of the bishops. That he betrayed James to William we have seen; that he afterwards betrayed William to James, in the affair of Brest, has been equally stated. That he was in correspondence with the Pretender during the time of his glory under Anne is not to be doubted. Yet Burnet says of him that "all things being laid together, he was one of the worthiest and wisest men that has been employed in our time;" and, when he died, adds, that "he was the most *uncorrupt* of all the ministers of state he had ever known." After what we have seen, that is not saying much. While employed as commissioner to William, where was his love of liberty when he wrote his advice to the king to retire? This might have been right or wrong; but mark the reason. He assured him that his subjects would, before a year, *invite him back upon* their knees. The king took the advice, and was ruined.

Perhaps this was a mere error in judgment; but that judgment was too clear to believe itself sincere; and we may observe that, *if* sincere, he could never have been the friend of the people. It was the very advice charged by Burnet, and also by William's partisans, as a crime upon the Catholics and the queen. More probably, thinks

Sir James, that, as he was accused, long before, of betraying the counsels of James to the prince, his object must have been to remove him out of the way of the course the prince was pursuing. Either way he was not true; if he was playing the prince's game, he was false to his master; if sincere to his master, false to the revolution. When afterwards he was the leading minister of Anne, he joined with his precious father-in-law, Marlborough, in correspondence with the exiled family, having before joined him when both were in the service of William, in betraying the expedition to Brest.†

I grieve at all this: the characters of our great statesmen and supposed patriots have received irreparable wounds by the publications of modern times. Their private lives, their secret motives, are brought to light, as if dug out of the ruins of a moral Herculaneum. I would rather have remained in illusion and ignorance, like Horace's madman.

"Pol! me occidistis amici, non servastis.

Can we wonder at the complaint of Macpherson, who, in the course of his inquiries, though granted access to public papers, was generally refused the aid of private records? "Men who have become distrustful," says he, "of the principles of their ancestors, are interested in their reputation. With a preposterous show of attachment to their progenitors, they

† Coxe's Marlborough, vol. i. 76.

seem to think that to *conceal* their actions is the only way to preserve their fame."*

And here I would make a close, but that the great Deliverer himself claims "our meed of praise," not, I fear, without alloy. Yet was he so great in most things; so profound in his views; so vast in his designs; so ardent and determined, and yet so cool and wary in their execution, that both wisdom and heroism at once seem to belong to him. Every thing he did, every thing he wished to do, was grand. The mere first magistrate of a comparatively not powerful state, nothing less than Europe itself, formed the scope of his operations. When his country despaired, and in the eyes of every one seemed lost, he uttered that gallant and patriotic sentiment, "We will die in the last ditch." For this alone he would have been immortalised by Plutarch, and ranked with his most dazzling characters. In creating and organizing the league of Augsburg, where kings, and emperors, and a pope himself played a subordinate part, he displayed a governing mind for which the same Plutarch would have set him at the head of his sages. In truth, if greatness is shown by doing the greatest things with the smallest means, he was in every sense not merely great but the greatest of his time.

And this will account for what seems the most astonishing part of his character and his history,

* State Papers, vol. i. 8. Introduction.

that his attempt upon England, one of the most stupendous designs that history records, was only secondary,—only subservient to his vaster object of humbling Louis XIV., the Philip of Europe. That the mere director of a small federal commonwealth, his own power by no means unembarrassed, but clogged with many opposing interests, should conceive and execute the design of dethroning a great king in the midst of seeming despotic power, with a fleet, an army, and a treasury at his command, and that he should do this not as an insulated or final object, to end in himself, but merely as ancillary to one much greater,—not as a means to deliver England, but as an end to liberate Europe! This seems unparalleled; yet all was conceived by almost his single head, and executed by almost his single arm. The attempt alone would place him in the very first ranks of the Temple of Fame.

But though, with a view to the great field of Europe, where he reaped nothing but glory, this character of him is incontestible, did he really, in regard to England, and his love for English liberty, merit the title we are so glad to bestow upon him of our *glorious* Deliverer? Deliverer he was,—but was he in this point glorious?

In part we have already answered this in the partial notices we have taken of him, by which it should appear, beyond all doubt, that he was as hypocritical as daring; that his high, his magnificent views were kept from the open light of day, by

dissimulation, and something worse; for no one can deny that wilful and deliberate falsehood formed one of the bases of his Declaration.* All now agree that pretending to rescue a country from the chains of another prince, he only wanted to impose upon it his own; and that he sought his grand object by mean deceptions of those he had to manage, and became the pander and encourager of a faction, rather than the generous ally of a nation of freemen.

Such, I am bound to say, the same history which proclaims his elevation demonstrates, with equal truth, to have been the littleness of William. In particular, the deceptions practised on the kings his uncles, one of them his father-in-law, whose subjects he was seducing, while he denied all sinister views upon them, stamp him with a stain not a little resembling dishonour.

We have seen in one of his letters written by his orders on the subject of the Test laws, only a few months before the invasion, that he and the princess considered themselves bound, both by the laws of God and nature, to show profound duty to James.

Upon this we agree in the following observation:—"The Revolution, *as between James and his subjects*, requires no justification; but the relations of father and children between him and the prince and Princess of Orange are essentially distinct, and the

* Can we suppose him to have anticipated a modern discovery in political lying, that it is a *postponement* of the truth to serve a temporary purpose?

obligations, which in this sentence they so solemnly avow, contain, perhaps, the strongest case which could be made against them by their enemies."*

But in regard to William's treachery to his father-in-law, cases multiply. The infamous Sunderland was in his pay, and, it should seem, he was in some degree the author of the measures that made James unpopular. To encourage his zeal for popery was to ruin him, and this service, according to Macpherson, was performed by Sunderland with a *strange kind of fidelity*. Sidney his uncle was sent to the Hague to facilitate their intercourse; and while William encouraged James in his most imprudent and arbitrary schemes by means of Sunderland, he kept Dyckfelt his minister in England to promote revolt.†

Long previous to this, in 1681, we have a sort of profession of faith from William, with which his actual conduct afterwards is irreconcilable, consistently with honour.

It seems at the crisis of the Exclusion Bill (which, as we have seen asserted, the prince approved) a conference was held upon it between him and his uncle Charles II., of which Seymour, Hyde, and Conway were witnesses. The particulars are curious.

* Mackintosh, vol. ii. 134.

† Macpherson, vol. i. 477. He cites the Life of James and D'Avaux for this, and it falls in with the general character of his proceedings. The guilt of William, however, is here so particularised, that it would have been better if the details of the proofs had been given.

The prince had desired assistance against France, or Flanders would be lost. "When the prince had finished, the king asked, whether a parliament meeting on no better hopes of agreement than the last, would contribute to the support of his allies?

He desired him to consider their demands, and to give fairly his opinion, whether these demands should be granted. He asked him, whether he would advise the exclusion!

He replied, that he *abhorred* the thought.

He inquired whether the prince would propose limitations.

"The crown must not be tied," replied the prince.

"Ought I to place the militia, the sea-ports, the judges, out of my own power?"

"I shall never advise that measure," said the prince.

"Shall all the ministers and officers suspected to be the Duke of York's creatures be removed, and confiding men, true Protestants, be raised to their place?"

The prince said, "he disclaimed it all." "These," resumed the king, "were substantially the demands of the two last parliaments; and if a parliament is necessary, I desire you to propose somewhat toward a better agreement." The prince replied, "that he knew things only as they were mentioned abroad; but that he understood not their real condition at home." Being pressed to propose some plan, he desired time to give his answer.*

* Macpherson, vol. i. 366.

Another case of deceit seems still worse than this.

The prince assured the emperor, in a letter a short time before he sailed, "that whatever reports may have been, or might be, circulated to the contrary, *he had not the least intention to injure the king, or those who had the right of succession;* and still less to make any attempt on the crown, or wish to appropriate it to himself." This was both a direct, wilful, and deliberate falsehood; and a paltry equivocation. As far as regarded James I., we have seen it was a glaring untruth; as regarded his son, a still meaner equivocation: for, though he might explain, if pushed, that, in *his opinion*, the child was supposititious, and, therefore, was not meant to come within his notion of the right of succession; yet, as he knew the emperor was a bigoted Roman Catholic, Mackintosh holds (probably rightly) that he was interested for the son of James as well as himself, and would construe the words so as to include him.

Another charge is of a deeper die; for as early as the Exclusion Bill, full five years before the invasion, he had machinated with those who favoured it, "and it would appear, by a letter from Montague to him, after he became king, that he *knew and approved* of the Rye House Plot."* If this be so, two important inferences arise from it; extreme guilt on his part, and the total refutation of the doubts which

* Supra.

almost all extreme Whigs pretend to throw over the existence of that plot.

Ever dissembling, yet ever pursuing, his great object, the crown of his father-in-law, under whatever disguises, his negotiation with the pope himself, to incline him against James, is a consummation of art.

The pope (Innocent XI.) was the enemy of Louis, and so far was inclined to the prince's designs; but the interests of the papists in England interfered. With uncommon adroitness William outwitted the holy father, even in this. Through his friend, the prince of Vaudemont, whom he sent to Rome for the purpose, he explained to his holiness, that he was wrong to expect any advantages to the catholics in England from James; because, being a declared papist, the people would not support any of his measures. But *for himself, should he mount the throne*, he might take any step in their favour without jealousy; and would certainly procure them toleration, if the pope would join the emperor and king of Spain in favouring his attempt. What is surprising, this thin veil blinded the holy father, and our great Deliverer, who certainly never afterwards thought of his promise, obtained money from the Roman church for the express purpose of dethroning a Roman catholic king.*

I pass by the numerous evasions by which he

* Macpherson, vol. i. 495. He cites the MS.

parried his father-in-law's reiterated demands, that he should not encourage the English malcontents, who all flocked to him, and were all entertained and protected. I cannot pass a proceeding, more, indeed, appertaining to the morals of private life than to public conduct, but yet so obviously the effect of a deep political scheme, for the sake of which he stooped to a degradation both of himself and his pious consort, that it ought to be mentioned. Had it been in France, under the regent or Louis XV., it might have carried no scandal with it; but William, and still more his wife, were, or pretended to be, of the strictest and most exemplary behaviour in all the decencies and duties of religion: who then could believe that, in order still more to conciliate the Duke of Monmouth, one of his most useful tools in intriguing with England, he obliged the princess to receive with uncommon marks of honour the lady *publicly* known as Monmouth's mistress; and, though of a most jealous disposition, to receive visits alone from Monmouth himself?*

Where he complied with the requisition of the Lords, and their motley compeers the *ex*-commons, to take upon him the government, he descended to the merest coquetry.

How unworthy a magnanimous Deliverer who had armed and come from far for the very purpose!

* D'Avaux, ap. Macphers. i. 437. The lady was Lady Harriet Wentworth.

He affected to say the thing was a matter of weight, *and must be considered;* that thing which had for years been the object of his ardent longings; for which he had for years been laying the ground; and for which for years he had sacrificed his private character for openness and honour.

However he soon found that whatever was the weight, he was able to bear it, and *accepted* the offer; "*affecting* to confer an obligation, by taking upon him a laborious trust in the sovereignty of the English nation, the first object of his ambition, and of his life."

By some it was said that the offer, even though made by turn-coat peers, and his own spurious progeny, the temporary commons, was thought to have been tardy in coming. Sheffield says, they were quickened by the presence of Schomberg's troops, and also by a murmur that went about, "that the city apprentices were coming down to Westminster, in a violent rage, against all who voted against the prince of Orange's interest. There appears, indeed, no ground to suppose that the prince *directly* suspended over their deliberations the terrors of his army or of the populace; but it is far from being equally probable that the benefit of these terrors was not felt on that, and *employed* on *other* occasions. The fury of the rabble was soon regarded as *a familiar engine of policy to promote* the objects or interests of the prince. *It was associated with the policy of William, both in Holland and in England, by*

an odious by-word so well understood as to be employed in a document signed by five prelates. Referring to the author of a libel upon them, they say, 'he (the author) barbarously endeavours to raise in the English nation such a fury as may end in De Witting us, — a bloody word (they add) but too well understood.' *

These sad instances of a falling off from honour, but for which the character of William would have been perfect, must still be increased by one transaction more, which will sufficiently demonstrate how little he cared for the cause of England, except as it contributed to his own views; I allude to his consent in negotiating the peace of Ryswick, to the abandonment of all that he had professed to be his object in assuming the crown; namely, delivering the country from a family of papists, and the disgrace of a spurious heir.

It is remarkable, that none of the contemporaneous historians knew, or, at least, have mentioned this, although James himself has recorded it in his life,— strange that it should have taken a period of seventy years before it was published to the world! The account by Macpherson is as follows:—

"While negotiating the peace, the two hostile armies lay opposite to one another in the neighbourhood of Brussels. The Earl of Portland, on the part of the king of England, and De Boufflers, in the name of

* Hist. Revol. vol. ii. 284.

Louis, met between the armies and held a conference in the open field, on the tenth of July. They met again on the fifteenth and twentieth of the same month, in the same manner; but, on the twenty-sixth of July and the second of August, they retired to a house in the suburbs of Hall, and reduced to writing the terms to which they had agreed in the field. The world have hitherto been no less ignorant of the subject of these interviews than Europe was then astonished at such an uncommon mode of negotiation. As William trusted not his three plenipotentiaries at the Hague with his agreement with France, mankind justly concluded that a secret of the last importance had been for some time depending between the two kings. Time has at length unravelled the mystery. Louis, unwilling to desert James, proposed that the Prince of Wales should succeed to the crown of England, after the death of William. The king, *with little hesitation,* agreed to this request. *He even solemnly engaged to procure the repeal of the Act of Settlement;* and to declare, by another, the Prince of Wales his successor in the throne.

"Those who ascribe all the actions of William to public spirit, will find some difficulty in reconciling this transaction to their elevated opinions of his character. In one concession to France, he yielded all his professions to England; and, by an act of indiscretion, or through indifference, *deserted the principles to which he owed the throne.* The deliverance of the

nation was not, however, the sole object of this prince. Like other men, he was subject to human passions; and, like them, when he could gratify himself, he served the world. Various motives seem to have concurred to induce him to adopt a measure, unaccountable on other grounds. The projected peace was to secure the crown in his possession for his life. He had no children, and but few relations; and those he never loved. The successors provided by the Act of Settlement he either despised or abhorred; and he seems, hitherto, not to have extended his views beyond the limits of that act. Though James had displeased the nation, he had not injured William. The son had offended neither; he might excite compassion, but he could be no object of aversion. The supposed spuriousness of his birth had been only held forth to *amuse the vulgar;* and even these would be convinced by the public acknowledgment intended to be made by the very person whose interest was most concerned in the support of that idle tale."

These reflections of Macpherson seem so just, that nothing need be added. They confirm, in an eminent degree, all that I have ventured to hazard on the defective side of the character of a man who, but for these defects, would have been as great and glorious as we wish to consider him; and who, as it was, was, as I have allowed, the greatest of his time.

He, has, perhaps, detained us too long from the concluding scenes of the Revolution; with which, and the reflections they prompt, I will close these strictures, already, I fear, too long.

NOTE.

In page 63. no notice is taken of the unjustifiable design of the officers, as far as it went, to coerce the parliament by marching to London. It is passed in silence, not only because it was never conceived by more than the three or four officers who canvassed it, but because no proof whatever beyond the assertion of those who answered their own purposes by it is given that it was with the privity of the king. His privity was confined to the *petition*, which he certainly approved, and who can either blame or wonder, whatever its prudence?

END OF THE FIRST VOLUME.

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